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MEMORIALS

OF THE

BRITISH CONSUL and FACTORY

AT LISBON.

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MEMORIALS

OF THE

BRITISH CONSUL and FACTORY,

AT LISBON,

TO

HIS MAJESTY'S AMBASSADOR

AT THAT COURT,

AND THE

SECRETARIES OF STATE

OF THIS KINGDOM.

LONDON:

Printed for J. WILKIE, at Number 71, in St. PAUL's Church-yard. MDCCLXVI.

PREFACE.

OUR Portugueſe concerns being of the greateſt importance and juſtly meriting the publick attention, it was thought proper to publiſh the following Memorials, that the nation in general may judge of the ſtate of our trade in that country, and from the moſt authentick teſtimonies learn the true condition of our countrymen in Portugal.

THESE Memorials are ſet forth without comment, and the facts left to ſpeak for themſelves, to the end that the deſign of the following ſheets may appear to be what it really is, a deſign to inform not to inflame; a deſign to obtain a redreſs, and conciliate amity between the two nations by a removal of grievances, not to widen breaches and promote animoſities.

How far this natural purpoſe is anſwered in this publication, will beſt appear from a peruſal of thoſe Memorials and Narratives in this manner preſented to the publick eye.

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TO THE RIGHT HONOURABLE

THE EARL OF KINNOULL,

His Majeſty's Ambaſſador Extraordinary and Plenipotentiary at the Court of Portugal.

May it pleaſe your Excellency,

THE Committee of Britiſh Merchants, appointed by the Liſbon Factory to confer with your Excellency on the ſtate of their trade and grievances, moſt humbly beg leave to lay before your Excellency ſeveral papers relating to a ſeizure of money, made on the perſon of an officer of one of his Majeſty's Pacquet-boats.

It may not be improper, at the ſame time, to acquaint your Excellency, that a tedious and expenſive ſuit at law has been cloſely followed, for the recovery of this ſum, in the name of Humphry Bunſter, the perſon on whom it was found; and farther, that on the 26th of December, 1758, a ſentence was iſſued, ordering that the money ſhould be confiſcated, half to the uſe of his Moſt Faithful Majeſty, and the remainder to the perſons who made the ſeizure.

That on this unexpected and unprecedented event, the Proprietors of the money waited on the Honourable Edward Hay, Esq; his Majesty's Envoy Extraordinary to this Court, setting forth the dangerous consequences of such a sentence, and praying his interposition in favour of the Trade.

That notwithstanding the Envoy's endeavours to stop any farther proceedings, a second sentence was issued the 24th of March, 1759, confirming the former one: in pursuance of which the money was disposed of, half to the King's Exchequer, and half to the officers who seized it. That hereupon the Members of the Lisbon Factory thought it their duty to apply to his Majesty's Envoy for leave to transmit, through his means, to Mr. Secretary Pitt an humble representation of their hazardous situation, both with respect to their persons and effects, which was accordingly done, and a most gracious answer communicated to them by the Envoy, with assurances of being supported by his Majesty in all their just causes of complaint.

We shall not take up your Excellency's time with shewing how interesting a point it is to Great Britain to have a tacit allowance from the Court of Portugal of remitting home in specie the balance of trade in our favour; nor shall we dwell on the hazard we run whilst the execution of an obsolete law is thus encouraged, to the involving not only the fortunes, but also the lives of every one of his Majesty's subjects engaged in a trade so advantageous to the nation;

tion; hoping that this will plainly appear from the whole tenor of the ſentence, as thereby no place can be held ſecure from ſeizures and confiſcations, where a conjecture can be formed that an extraction is propoſed, ſuch conjecture being built on the teſtimony of the mean and indigent perſons who made the ſeizure, and who are admitted as proofs ſufficient to render it legal, notwithſtanding that thereby a moſt important benefit accrues to them, no leſs than half the amount of the confiſcations.

The papers we have now the honour to preſent your Excellency are,

A Collection of the Laws of this Kingdom, prohibiting the Exportation of Gold, &c. with the Engliſh Tranſlation annext. And

A Petition to his Moſt Faithful Majeſty, for a Reviſta or Reviſal of this Sentence, drawn up by a Perſon reputed the greateſt Lawyer in Portugal, which we have likewiſe tranſlated for your Excellency's Uſe.

It only remains for us to inform your Excellency, that by the laws here, a reviſal muſt be applied for and entered upon within two months after the ſentence is iſſued, but it is not an unuſual thing for his Majeſty to diſpenſe with this law, and grant a reviſal to commence out of the common courſe of time. We, therefore, with ſubmiſſion to your Excellency's judgment, think the ſhorteſt and eaſieſt way of defeating the pernicious effects to be feared from the

ſentence, is, by your Excellency's influence, to obtain from his Moſt Faithful Majeſty the grant of a reviſal, with an intimation to the Judges of the unlawfulneſs of the ſentence, that the ſame may be reverſed; in conſequence of which the Proprietors will receive half the confiſcation from the King's Exchequer, and for the remainder will bring an action at common law againſt the officers who made the ſeizure, which will diſtreſs them ſufficiently to hinder any the like attempts for the future, eſpecially when they find, that after flattering themſelves with having the money ſecure, they are obliged to refund it, and loſe the charges of an expenſive ſuit, which is little leſs than ruin to ſuch people. By this meaſure, which we can venture to ſay is not new in Portugal, the ſentence will be legally reverſed and not hang over us as a precedent, and the captors will be deterred from attempting any thing that muſt end in their ruin: the whole of which we moſt humbly ſubmit to your Excellency's ſuperior judgment.

Liſbon, July 19, 1760.

BOOK V. Folio Edition, fol. 82. *P.*

Chapter 113. *that Gold, Silver, nor Money, ſhall not be carried out of the Kingdom.*

NO perſon whatſoever, either native or foreigner, ſhall export by land or ſea, nor ſhall carry, or cauſe to be carried or exported out of our kingdoms and dominions, ſilver, gold, coined or uncoined, nor ſhall be aiding or aſſiſting to the carrying it; and whoever

whoever does the contrary, being found in the fact, or having it proved upon him, ſhall ſuffer death, and for the ſame act ſhall forfeit all his goods and effects, the half to the uſe of the perſon who finds or diſcovers him, and the other half to our Exchequer, and the ſame penalties ſhall likewiſe be incurred by thoſe perſons who conſent to, or are aiding or aſſiſting, or are privy to the carrying or ſending out the aforeſaid articles by others. and who knowing ſhall not immediately declare it to our officers of juſtice.

And whoſoever ſhall, in the ſame manner, carry or ſend the ſaid gold or ſilver, or be aiding, aſſiſting or privy to it, ſhall incur the ſaid penalties, as ſoon as the ſaid things are put in a boat, bark, or other veſſel, to be therein carried on board any ſhip whether belonging to foreigners or to our ſubjects; notwithſtanding they be not actually put on board ſuch ſhips, and even although it be alledged that before its departure they were intended to be brought on ſhore, and that they were carried and kept on board becauſe as foreigners, and not reſident in the port or place where the ſhips were, they were kept on board till inveſted, and that the ſaid gold and ſilver was the produce of wheat, or other merchandize brought to the kingdom.

1. And whereas many perſons put gold and ſilver, coined and uncoined, in bales, hogſheads, pipes, barrels and caſes, in which they put other goods and merchandize, intended to be carried or ſent out

of

of the kingdom, in order to convey them in a more clandeſtine manner: for this alone, without any farther proof of their intending to export them, they ſhall incur the aforeſaid penalties, notwithſtanding the ſaid bales, &c. may ſtill be out of the ſhips, barks or boats.

2. And thoſe perſons ſhall likewiſe incur the penalties aforeſaid, who carry gold or ſilver by land from any village near the water-ſide, to the Bar, or to any other village nearer to the Bar; but ſuch penalties ſhall not be incurred by thoſe who carry money ſufficient for their expences, according to their rank and the places whither they are going, nor by thoſe who carry precious ſtones ſet in gold; provided that the gold be not ſo much as to ſhew that the ſtones are carried for the ſake of the gold in which they are ſet.

3. And in order to exempt from the penalties aforeſaid thoſe perſons that carry money for their expences or precious ſtones ſet in gold, if in Liſbon before the ſaid things are put on board, ſhall make it known to the perſons by us authorized for this purpoſe, and in other ports, to the officers of juſtice, who ſhall fix what ſums may appear to them ſufficient for their expences, having due reſpect to their rank and the places whither they are going; of which they ſhall get information, delivering them a permit to carry or embark it; and in the like manner ſhall they examine the jewels they may want to carry

away, and finding that the gold in which they are ſet does not exceed what the ſtone requires, they ſhall paſs them a certificate of it; and any perſon found in a ſhip deſigned to put to ſea, or in a boat, or other veſſel, with money or jewels, who do not ſhew ſuch permit, or certificate, ſhall incur the penalties aforeſaid, notwithſtanding his ſaying that he carries the ſaid money for his expences, and that it may not be more than ſufficient for his journey or voyage, and notwithſtanding his alledging that the gold in which the ſtones are ſet is not more than it ſhould be, for it is our will and pleaſure that for carrying the ſaid things without a permit, he ſhall incur the penalties aforeſaid.

4. And in this manner may gold or ſilver, coined or uncoined, be carried to ſea to the iſlands, or other parts in our kingdom or dominions, and from thence to foreign parts, provided that when they are intended to be embarked, it be firſt made known in the city of Liſbon to the Judge, to whoſe care it is committed, and in all other places to the reſpective officers there reſiding, it being declared to them to what place they are intended to be carried. And the ſaid officers ſhall order an entry to be made in a book kept for that purpoſe, that ſuch perſon carries out the ſaid ſilver, gold, jewels or money, and for what place, by which entry the perſon ſhall oblige himſelf to produce a certificate that the ſaid things were carried and landed in the place ſpecified; for which purpoſe a convenient time ſhall be allowed him, due

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conſideration being had to the diſtance and time, which entry ſhall be ſigned by the ſaid perſon; and in caſe he does not produce ſuch certificate within the time allowed him unleſs hindered by ſome unforeſeen accident, he ſhall incurr the penalties aforeſaid, as if he had carried them out of the kingdom, which we ſhall hereby conſider as proved upon him, and if either foreigners or natives want to carry the ſaid things in foreign ſhips; beſides the aforeſaid bond, they ſhall give ſecurity equal to the value of the ſaid things to produce ſuch certificate, which not doing within the time allotted, beſides incurring the aforeſaid penalties, the value of ſaid things ſhall be made good by their ſecurity, without any form or proceſs.

5. And whereas ſome perſons, with a deſign of carrying the ſaid things on board ſhip to be ſent by ſea from the place where they are, may put them in boats under pretence of carrying them to other parts of the river through which their journey lies, and afterwards embark them on board the ſaid ſhip or ſhips, it is our will and pleaſure that, when any perſon intends to carry the aforeſaid things to any part of our kingdom, they ſhall be carried in one of the paſſage-boats going from ſuch place to where the journey lies, which boat ſhall not be hired by him alone: and going in any other bark or boat, or in a bark hired by him alone, he ſhall incurr the penalties aforeſaid, beſides the loſs of what is found upon him, or may be proved he carried: but all perſons who, it manifeſtly appears, do not carry the ſaid things to embark them on board any ſhip

or

or ſhips in the harbour, may go and carry them in any boat or bark whatever, even though it may be hired by them alone.

6. And we order the Judges of the ſeveral counties annually to take out a Devaſſa or ſecret enquiry of the foregoing, once in ſix months, in all our harbours and ports; and in the city of Liſbon, the Judge we have appointed for this purpoſe, impriſoning and proſecuting all tranſgreſſors: at the ſame time examining, by the books of entry, if the perſons exporting ſaid things to the Iſlands, or other parts of our kingdoms and dominions, have produced their certificates in the time allotted them, in order to proſecute thoſe who have not done ſo.

7. And the Judges who neglect taking out theſe Devaſſas or ſecret enquiries in the places, and at the time appointed, ſhall incur the penalties to which all Judges are made liable, by the laws of the kingdom, for omiſſions of this kind; and when they are removed from their poſts, in order to be advanced, enquiry ſhall be made if they have done ſo, in order that they may be proſecuted accordingly.

8. But any perſon, going out of the kingdom, may carry trinkets of gold or ſilver for his own uſe, not exceeding ſixty crowns, without being liable to any ſeizure or penalty whatever; as may likewiſe all perſons, going from theſe kingdoms to thoſe of Spain, carry what money may be required for their expences, according to their rank, and the diſtance of

the places to which they are going, which ſhall be limited by the Judges and Bailiffs of the exports in thoſe places through which they paſs, after making the proper entries: and they ſhall be credited on oath in regard to the places whither they are going.

9. And whenever we are pleaſed to grant any perſon the liberty of exporting from theſe kingdoms gold, ſilver, or money, he ſhall pay a tribute towards the redemption of ſlaves, beſides what he is obliged to pay in the *Chancellaria*, and he ſhall go through the cuſtomary forms obſerved by ſuch as export prohibited goods by our permiſſion, as contained in the preceding chapter.

10. And whoever ſhall carry gold, ſilver, or money to the kingdom of Spain, ſhall be liable to have it ſeized in the places and manner, and by the perſons expreſſed in the preceding chapter.

Alvara *or Law ordering that money ſhall not be carried to Brazil without being regiſtered.*

Don John, by the Grace of God, King of Portugal, &c. be it known to thoſe who ſhall ſee this law, that whereas experience has ſhewn the great prejudice reſulting to this kingdom from the exportation of money to Brazil, whither it is frequently ſent by traders and other private perſons; which, if continued, will cauſe a conſiderable deficiency in this kingdom: and whereas, in order to put a ſtop to this evil, by limiting the money ſent to that State to

ſuch

ſuch a ſum as may be ſufficient to carry on its trade, and yet not exceed what is required, I have been already pleaſed to determine that no money whatever ſhall be embarked or ſent to the State of Brazil, without its being firſt regiſtered in the proper office, as was formerly practiſed, which regiſtering ſhould not be done without licence from the *Conſelho da Fazenda*, under the penalty of loſs of the money to ſuch as appear to ſend it otherwiſe. In purſuance of which I have been likewiſe pleaſed to grant leave that, in the kingdom, or out of it, any private informations may be taken, and two-thirds of the ſeizures applied to my uſe, and the other third to that of the informer, declaring farther, that in other counties ſuch licences ſhall be paſſed by the *Corregidores* or Judges, or in their abſence by the *Juiz de fora*, which ſhall be regulated by the money that may have been ſent out through the ports of their reſpective diſtricts, judging from thence whether it may be proper to grant farther licences for Brazil, of which they ſhall by every poſt give an account to the *Conſelho da Fazenda*, that thereby the ſum regiſtered, and the licence granted, may be exactly known.

And in thus regiſtering, it is my pleaſure that the form hereafter mentioned be obſerved in the city of Liſbon. It ſhall be done by the proper Scrivener in his book, and in the ſeveral counties the *Corregidores* ſhall order books to be prepared for regiſtering ſuch licences, which ſhall be kept in the care of the Chancellor or eldeſt Scrivener: and in the abſence of the *Corregidor*, the *Juiz de fora* who

may grant the licenſes, ſhall order them to be regiſtered in the aforeſaid book, regulating their licences by the ſum required, and thoſe that have actually been exported; the whole of which ſhall relate to thoſe *Corregidores* and *Juizes de fora*, in whoſe diſtricts are any ſea-port towns. And I order all *Corregidores* of the ſeveral counties, *Juizes de fora*, and other officers and perſons, whoſe duty it is, that they obſerve, and cauſe to be kept and obſerved, the contents of this my law, which, that it may come to the knowledge of every perſon, ſhall be publiſhed in the *Chancellaria Mor*, and ſhall be regiſtered in the books of the *Dezembargo do Paco*. And the Chancellor ſhall cauſe copies of it to be ſent to the ſeveral counties under my ſeal, and ſigned by him. Given in this city of Liſbon 22d April. Antonio de Morais made this in the year of our Lord 1648. Pedro de Gouvea de Mello cauſed it to be wrote.

KING.

Decree ordering that a ſtrict caution be given to all Judges in regard to the exportation of money out of the kingdom.

BEING informed that, notwithſtanding the penalties inflicted by the laws of the kingdom on ſuch as carry money out of it, yet, through the remiſſneſs of the officers in the execution of them, this practice ſtill continues,

I RE-

I REQUIRE the *Dezembargo do Paço* to give them all ſtrict orders on this head. Liſbon, 11th March 1652.

The KING's *Cypher.*

Sentence of the Court of Relaçam, *condemning the money found on* BUNSTER.

AGREED in this Court, that the articles, fol. 20, and following, are not proved, and therefore that the ſeizure is lawful, and the money confiſcated agreeable to law, the pleadings being firſt duly examined; and as the laws of the kingdom not only prohibit the abſolute extraction of gold and ſilver coined or uncoined by natives or foreigners, but even make the intention puniſhable, when it is found in bales, pipes, barrels, or caſes, though with other merchandize, even before embarked in ſhips or boats; which law, though penal, may yet, agreeable to juſtice, be extended, when the gold or ſilver is found put up in any other thing or manner that indicates an intention to export it, as the law expreſſes, and is agreeable to its general deſign; for this caſe is not ſo much to be deemed extended, as comprehended in the law, and is agreeable to juſtice, even in penal caſes, beſides which, though the witneſſes, fol. 5, and following, may be looked upon as parties concerned (and none are admitted as witneſſes under the like circumſtances) yet, as the King's Officers, they are not to be conſidered in this light, but as publick Officers, whoſe teſtimony is required to prove the ſeizure; which is agreeable to

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the opinion of ſeveral authors. It is proved by the witneſſes, fol. 33, and following, that this ſeizure was made on an Engliſh ſailor, belonging to the packet's boat at the time they were carrying off ſilver, and that this money was found hid on him in canvas ſlings hanging from his ſhoulders as low as his breeches, and divided in ſix parcels covered with canvas ſewed and ſealed, bearing the marks and numbers declared fol. 2, from all which it cannot juſtly be alledged in favour of the Claimant (though he has thought proper to do ſo) that he brought the money to pay away in this city, it not being the coin of the kingdom of England; nor he a Merchant to need paying money here, nor can this plea be admitted, conſidering the manner in which it was found, and its being the current coin of this kingdom where it is certain he received it, it being no ways neceſſary for him to carry it about in manner above-related to pay away, but rather is the uſual way of ſending money out of the kingdom, for which reaſons the preſumption of the intention to extract it becomes the ſtronger, it being of very little conſequence, whether the money was ſeized as the Captors depoſe, near the wall on the water-ſide, or in the middle of the ſtreet, as the witneſſes ſwear on the ſide of the Claimant, they being both ſo near the place of embarking, that it no wiſe invalidates the proofs which are ſufficient to condemn the Claimant in the loſs of the money, agreeable to law, the ſole intent of which is to hinder ſuch practices at all events, as moſt pernicious to the public good, in favour of which the preſent extenſion of the law

may

may be with more reaſon admitted, as no corporal puniſhment is inflicted, but merely the loſs of the money. All which conſidered, and the farther contents of the proceſs, we judge the ſeizure to be legally made, and the money confiſcated, half to the informers, and the other half to the uſe of his Majeſty: And we alſo condemn the claimant in coſt of ſuit. Signed,

Liſbon 26th, December 1758. SEABRA, PERA, GIRALDES.

Preſent, A Cypher of the King's Attorney General.

MAY IT PLEASE YOUR MAJESTY.

The Petition of HUMPHRY BUNSTER, *an Engliſh Man, ſetting forth,*

THAT at the ſuit of ANTONIO PERREIRA, Scrivener of the diſtrict of the *Rua-nova*, in the caſe of a ſum of money ſeized on your Petitioner, a final ſentence has been iſſued in March laſt year; and whereas your Petitioner's attorney applying for leave to make out a petition for a reviſal, had not compleated it within the two months, preſcribed in the Statute, lib. iii. fol. 95. they now offer it annexed, repreſenting that no delay nor prejudice can ariſe from the grant of it, the ſentence having been duly executed and the money paid into the Exchequer and to the informer, which the reviſal though granted could not impede; and whereas your Majeſty, as a ſpecial favour, is ſometimes pleaſed to diſpenſe with the law, and allow a reviſal out of the ordinary courſe

of time, the Petitioner humbly prays that your Majeſty may by a royal Decree grant leave to have cognizance taken of this reviſal, the ſtatute to the contrary notwithſtanding, or that your Majeſty will be pleaſed to call up the written proceſs now finiſhed, to the Secretary of State's Office of the inward department, ordering a ſummary examination of the ſentences.

May it pleaſe your Majeſty, in conſequence of what is above repreſented, and as a ſpecial grace and favour, to grant this humble petition, or decree otherwiſe as your Majeſty may think proper.

And your petitioner, &c.

To the KING's *Moſt Excellent Majeſty.*

The humble petition of HUMPHRY BUNSTER, *ſetting forth,*

THAT on the 31ſt May, 1755, near mid-day, your petitioner, walking in the public ſtreet, on the Quay of Santarem, betwixt the water-ſide and the houſes facing the river belonging to Franciſco da Cunha, amongſt many other perſons; was ſet upon by ſeveral men calling themſelves officers of Juſtice, who, upon ſearching, took from him 6,652 M.R. 800 which your petitioner had about him in ſeveral parcels, being the uſual way of carrying a large ſum of money. Your petitioner ſubmitted to this, conſidering the perſons who ſearched him as Officers of Juſtice, they in no ways treating him as a criminal perſon, but ſuffering him peaceably to depart: he

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as a foreigner and ſubject of Great Britain, being unacquainted with their motive for thus detaining his money, but learning that he was ſuſpected of having a deſign to carry it out of the kingdom, he enquired in what manner it was diſpoſed of, and found it depoſited, and an information lodged in the Tribunal of the *Saque da Moeda*, *Antonio Perreira* Scrivener to the Alcayde or Bailiff of the *Rua Nova* appearing as informer, and as witneſſes the ſeveral Bailiffs by whom your petitioner was firſt laid hold of, and who are real parties intereſted in the deciſion of this ſeizure. The Plaintiff applied to the Judge, ſhewing by the petition, fol. 8, that the information ought not to be received; but by the ſentence, fol. 9, the contrary was determined, and the Plaintiff left at liberty to offer the matter contained in his petition in arreſt of judgment, in which light the articles of conteſtation, p. 20, were received by the ſentence, p. 23. The informer oppoſed them, p. 26; the whole of which collected, with the ſeveral allegations of the parties anſwered by the Attorney-General, the information was admitted as legal, and the money ordered to be confiſcated, half to your Majeſty's Exchequer, and half to the uſe of the informer, as appears by the ſentence, p. 126, confirmed by that, p. 159, contemning the pleadings, p. 130. Theſe ſentences are illegal, for notwithſtanding its being acknowleged that the Plaintiff was not ſeized upon the walls, as the Defendant fairly urges and attempts to prove by the partial witneſſes he produces, who, as not judicial, are liable to the exceptions made out, p. 88, yet has the ſeizure of money been deemed

legal upon the bare preſumption of the Plaintiff's carrying it privately about him, with an intention to export it; and therefore the point is reduced to this.

Whether in the preſent caſe a crime can be called conſummated, where only the intention of committing it appears? And whether a particular law of the kingdom admits of that extenſion which the ſentence calls a Comprehenſion *ex identitate rationis*, and which is allowable in penal caſes, particularly in favour of the Republic, and where capital puniſhment is not inflicted.

The deciſion ought to have been: That the money ſhould not be judged confiſcable, the abſolute extraction of it by ſea not being effected; and this notwithſtanding that from the preſumptions inſinuated but not proved the Plaintiff's intention to export it were ever ſo clearly manifeſted by his occupation, by the manner in which it is ſaid he had the money about him, which is not judicially made appear, or finally by the packet's boat being near the Quay of *Santarem*, and the Plaintiff in the ſtreet, between the Quay and the houſes; for the utmoſt this can be ſaid to prove is,

> *That the Plaintiff intended to export this money, and that if he had not been ſeized in the public ſtreet, perhaps he might not have altered his intention, but carried it into execution, and conſummated the crime.*

No part of which is true in the preſent caſe; for the money was deſigned to make ſeveral diſtinct pay-

payments, which, with its great weight, will account for his carrying it in ſlings hanging from his ſhoulders, and for the parcels being ſewed in canvas; for had they been wrapped up in paper only, their weight would have burſt them, eſpecially as ſeveral of the parcels were carried together; but let us admit the circumſtances that appear the ſtrongeſt againſt the Plaintiff, ſtill ſhall we prove that the preſent ſentence is notoriouſly illegal, and that the penalty of forfeiture of the money could not be inflicted, where that of the loſs of life is not equally incurred, the ſtatute leaving no medium in this caſe.

The exportation of money ſhould with reaſon be effectually prevented, it being the ſtrength and ſupport of the kingdom. Let whoever commits the crime of exporting it, not only loſe the money, but likewiſe ſuffer death, as is lawfully and politically determined by the ſtatute of this kingdom, book v, chapter 113 *in princip.* and § 1 and 2; but this penalty being ſo ſevere, and admitting of no modification, it follows, that where death is not inflicted, the forfeiture of the money cannot, nor ſhould not, take place, no ſuch ſeparate penalty being expreſſed in the ſtatute.

In order to inflict the penalty, the actual conſummation of the crime is by law required, and not the ſimple intention; for in all caſes where a penalty is denounced, the crime is conſidered as accompliſhed, and not barely as intended, nor is it fair to draw

concluſions from other caſes, as is done in the preſent ſentence.

The law ſpecifies two ways in which money may be exported, one by land, the other by ſea.

The firſt does not affect our preſent purpoſe, the ſecond does, it being ſuppoſed that the Plaintiff intended to export this money in the packet, deſigned to put it in the boat, or embark himſelf with it.

And here the ſtatute ſays, that the crime ſhall be looked upon as conſummated, and the penalties ſhall be incurred whenever the money is in fact put on board any veſſel, although it may not be the ſame deſigned to tranſport it out of the kingdom, it being ſufficient that ſuch veſſel be employed to carry it to any other, *ut videre eſt in princip. diet. ord. vſa.* "the ſaid penalties ſhall be incurred," *ibe.*

> *The aforeſaid penalties ſhall be incurred as ſoon as the ſaid things are put in a boat, bark, or other veſſel to be therein carried on board any ſhip whether belonging to foreigners, or to our ſubjects, notwithſtanding they be not actually put on board ſuch ſhips,* &c.

The words—*as ſoon as*—and the context of what is above tranſcribed, ſignify the fact conſummated, and exclude even the more immediate proofs of the intention, and much more do they exclude remote

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and inconcluſive preſumptions, *ut eſt in lib.* 4. *If de Condic e demonſtrat.*

THE farther context of the ſtatute does the ſame by poſitive determinate words applicable to the conſummation of the fact, *ut ibi*, "ſhall not or may not export"—"ſhall not carry"—"ſhall or may not cauſe to be exported or carried"—it no where ſaying, "ſhall not intend to export"—"ſhall not intend to carry, &c."

THE 139 chapter of the regulations of the revenue, § *item* "we forbid"—on which likewiſe the preſent ſentence is founded, makes clearly againſt it; for the exporting to Spain gold, ſilver, coin, horſes, other beaſts, and arms, being thereby prohibited, it in no wiſe puniſhes the intention, but even limits the penalty in caſes where the crime has been accompliſhed, to impriſonment and forfeiture of the things ſeized; for being a ſtatute of a later date, it appears to moderate the capital puniſhment and confiſcation impoſed by the old law *dicto* fol. 113, not conſidering the crime as conſummated from any previous tokens of the intention, but requiring as eſſential, that the prohibited things be found on the borders, or at the extremity of the kingdom, *ut ibi.*

> *And whoever is found on the borders with any of the afore-mentioned things without our permit, ſhall forfeit the ſame, and be impriſoned.*

AND in the ſubſequent ſection, directed to hinder the abuſes committed againſt the Traders

Traders who bring goods and merchandize from Spain, on the bare preſumption of their being bought with gold and ſilver carried out of this kingdom, it is ſaid that in future no proſecution ſhall be carried on upon ſuch preſumptions, even tho' it may afterwards be proved, and that unleſs the things are ſeized on the borders, no penalty ſhall be inflicted, *ut ibi*.

> *In order to avoid theſe proſecutions, and as uſeful to our ſervice, we order that thoſe Traders, on whom ſhall be found on the borders gold, ſilver, or any other prohibited goods going to Spain, ſhall forfeit the whole to our uſe in virtue of this our law, but after having paſſed, and nothing being found on them, it is our will and pleaſure that they ſhall not on this account be liable to future proſecutions, notwithſtanding its being afterwards proved that they carried ſuch goods, and this, any law to the contrary notwithſtanding.*

The intent of this ſtatute is ſufficient to clear up all doubt, by ſhewing that no puniſhment whatever is annexed to the ſimple intention of committing the crime of exporting money *maximè*, if we duly weigh and connect the words, " on whom ſhall be found on the *borders* gold, ſilver, &c. with"—" but after having paſſed"—which implies that there cannot be a diſtance between the borders of the kingdom and ſuch their paſſage ; for were any allowed, then no longer would it be the border or extremity of

the kingdom, as may be ſeen in the Portugueze Dictionary of *Father Bluteau*, letter E, p. *mihi Colunt in fine Colun* 2 *in princip. ibi.*

Extremity or border, that indiviſible point which is either beginning or end.

Extremity or border, is the furtheſt removed from the middle, and from whence appears the greateſt diſtance to the other extremity. Our birth or death, Eaſt and Weſt are extremes.

In Naples exiſts a Statute or Pragmatick reſembling that of our kingdom, in which it is ſaid, explaining when the crime of exporting money may be looked upon as conſummated, that by ſea it ſhall be underſtood as compleated when the money is put on board the veſſels, or on perſons already embarked in them. This pragmatick is tranſcribed, being the 23d extraction, by the learned *Angell de Deliet*, p. 1. cap. xliv. *ſub* No. 20: it ſays as follows.

Si debbia intendere conſumato il delitto, &c.

From whence the ſame *Angell* concludes in the 5th ſect. *ita ut*, that whatever is ſeized out of the veſſel, through which the extraction is propoſed to be effected by ſea, or is met with before its arrival at the borders of the kingdom, if propoſed to be carried out by land, can in no wiſe be detained, *ut ibi.*

Ita ut repertus, &c.

And in No. 24, he gives the reaſon for this, which is, that the perſon detected before the con-

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ſummation of the export propoſed, however clear his intention may be proved, may repent and alter his deſign, *ut ibi.*

Ac in ſuper ſi Statuto, &c.

This will admit of little or no diſpute when the words of the Statute v. fol. 113, *in princip.* are conſidered, where the penalties inflicted on the exporter is expreſſed in the preter tenſe, whoever has, or may have exported, and not in the preſent tenſe, whoever does export, giving to underſtand that it requires the crime to be compleatly conſummated, *ut ibi.*

> *Thoſe who in ſuch manner have, or may have carried or ſent . . . . ſhall incur the aforeſaid penalties as ſoon as . . . . .*

And whenever a law inflicting a puniſhment on exporters, is expreſſed in the preter tenſe, it cannot be ſaid that the intention is puniſhable, nor that thereby, however near to the abſolute commiſſion of the crime, it can be deemed as conſummated.

Gand. de Reb. &c.

Salzed, in his *Juridical and Political Treatiſe on Counterband Trade*, Cap. 10. No. 13. *ibi.*

> *Unleſs the Exportation of them be compleat or perfect.*

And it is notoriouſly unjuſt to extend a penal law beyond what it comprehends, for the aſſertion that ſuch

ſuch Statutes admit of an extenſion *ex identitate rationis*, in caſes uſeful to the Publick, is a concluſion void of all foundation in law or equity: for every penal Statute, directed to puniſh offenders, muſt be uſeful to the Publick by extirpating crimes; and therefore if this reaſon is ſufficient to juſtify the extenſion of any one penal Statute, then may they all be equally extended. Whereas, in fact, the rule to go by is, that none of them admit of an extenſion, and therefore the above reaſon loſes its force.

The following propoſition will ſet us right, and at the ſame time refutes the diſtinction made between the penalty annexed to the crime, and that left to the direction of the Judge. Either by the Statute in the preſent caſe, the intention is puniſhable, or it is not: if *primum*, then ſhould not the penalty have been leſſened or moderated; if *ſecundum*, then ſhould not any penalty have been inflicted: for the Statute cannot be extended directly contrary to what it decrees.

By the common practice of all nations, Statutes enacting penalties for the bare intention to tranſgreſs are laid aſide, except in caſes of high treaſon or rebellion, to which is generally added poiſoning, as is ſaid by *Raynold*, Vol. Crim. 45 *maxime* No. 46. *ibi*.

Quod omnibus juribus, &c.

And although in caſes of the moſt atrocious crimes the intention is liable to be puniſhed at the

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diſcretion of the Judge, it is either when made capitally puniſhable by the Statutes, or when ſuch intention manifeſts itſelf by circumſtances that ſhew its not being conſummated to be merely the effect of chance. If any perſon, with an intention to commit murder, lets off a fire-arm and it miſſes fire, his crime ſhall not be puniſhed with death, but with a penalty at diſcretion of the Judge, becauſe the tranſgreſſor did his utmoſt to perpetrate the fact from whence the death of the party might enſue. This was the caſe mentioned above by *Raynold*, and in the like, it is but juſt that the intention be made puniſhable; but where it amounts only to bare preſumption, and if even proved, gives time for repentance before the execution of ſuch intention, there is no law nor equity that inflicts a penalty even at diſcretion of the Judge. It is proved and acknowledged in the ſentence, that the Plaintiff was walking in the publick ſtreet; and however plain it may appear that his deſign was to proceed to that part of the Quay where the packet-boat lay, certain it is that when he was ſeized he had not got to the place where the crime could be conſummated, and no leſs certain it is that he was ſtill in time to repent and turn back. The officers therefore ſhould have waited till he had got out of the ſtreet into the boat with the money on him, in the ſame manner as by land they ſhould ſuffer him to go as far as the extremity mentioned in the regulations of the Revenue, that is to the borders of the kingdom; and

till

till he had done ſo any ſeizure muſt be illegal, as has been determined in a caſe already mentioned, relating to a ſimilar law, as we are told, *Reviſter Acle Marin na obſervat. a deciſ.* 552. No. 3. vs. *et ita*, which is ſaid to have been determined before the learned *Capic. Galior, ut ibi.*

Et ita per Regiam, &c.

Which deciſion was confirmed by the opinions of *Cuſt. Feud.* p. 2. Cap. iii. No. 112. *mauran de Contrab.* q. 6. No. 18. Therefore there is no place privileged whoſe immunity can ſcreen an offender who commits a crime in it. *Ord. L.* 3. *F.* 5. §. 2. Nor can any concluſion in favour of the argument be drawn from the 1 §. of the ſame law, whereby it is enacted, that the crime ſhall be conſidered as conſummated whenever gold or ſilver is found hid in bales, hogſheads, pipes, barrels or caſes, jointly with other things and merchandize, in order to be carried away; for this in no wiſe regards money that is not hid or covered by other things or merchandizes; rather the words of the Statute in this Section, by limiting its general ſenſe, fixes in what manner it is to be underſtood.

For in this particular inſtance the law determines, that the crime be looked upon as conſummated, and the intention as plainly made out, although the things in which the money is hid be found before embarked, *ut ibi.*

Notwithſtanding that the ſaid bales, &c. *be ſtill out of the ſhips, boat, barks*, &c.

It is therefore neceſſary to diſtinguiſh between money hid in ſuch manner as that from the appearance of the thing that covers it, it cannot be known to contain money, and between money packt up by itſelf in ſuch manner as to leave no doubt of it from the appearance of the parcels. In the latter caſe, where the money is not hid or covered by other things, the Statute ſays; that the crime of exporting it ſhall be deemed conſummated as ſoon as it is embarked, and not before: but when it is conveyed, hid and covered in bales of merchandize, or barrels of wet or dry goods, as they cannot be ſeen to contain money, the law directs that the crime ſhall be conſidered as conſummated, notwithſtanding the bales, &c. may be found before embarked. And thus great difference muſt be obſerved between the adverbs "as ſoon as," *Latine quam primum*, and "notwithſtanding that," *Latine licet ſeu atriem ſi ou quamvis*; the firſt relates to the money not hid, the latter, being its oppoſite, relates to that hid or covered; and therefore to confound one with the other, and make uſe indifferently of either, ſhews a bad argument and worſe judgment, and is a precedent of the moſt pernicious nature.

The Exchange and the Cuſtom-houſe, where conſiderable payments are made, are near the Quays and landing-places where boats lie; here large ſums are received and payed by merchants of all nations,

and here Captains of ſhips receive freights and bills of exchange to a conſiderable amount: if it exceeds a certain ſum it cannot be carried in their pockets without great inconvenience, and even in ſuch caſe the perſon on whom it is found may be ſeized, under pretence of his intending to export it, being found near the landing-places where ſeveral boats are lying.

The Statute is wiſely directed, but the Plaintiff was not found with the money hid or covered by goods or merchandize. It is not cuſtomary to carry it openly: the making it up in parcels is a commodious way of conveying a larger ſum than can otherways be carried: its being in canvaſs ſlings hanging from his ſhoulders was a like precaution for his greater eaſe in walking.

It is poſſible that this might have been deſigned to export, and perhaps the appearances are ſuch as are uſual on the like occaſions; but arguments drawn from the poſſibility of a thing, or from trifling appearances, are never admitted as concluſive.

From the whole of which, and from what offered in the pleadings, p. 94. and the embargoes, p. 130. ſupported by thoſe, p. 144. agreeable to law, to fact, and to eſtabliſhed precedents in the like caſes, the firſt ſentence being the illegal one, of which a reviſal is here prayed, will, it is hoped, appear juſt and reaſonable on which it may be granted.

MAY it pleaſe your Majeſty to grant an *Alvara*, or Decree of Reviſal in the ordinary way, that the ſentences here repreſented againſt may be examined, and your Petitioner and his Lawyer exempted from the penalties of the Statute.

And he, as in duty bound, &c.

Signed,

JOHN CARLOS MORAO PINHEIRO.

TO THE RIGHT HONOURABLE

THE EARL OF KINNOULL,

His Majeſty's Ambaſſador Extraordinary and Plenipotentiary at the Court of Portugal.

May it pleaſe your Excellency,

THE Conſul General, and the Committee appointed to confer with your Excellency, having frequent application made to them from different Members of the Britiſh Factory, to implore your Lordſhip's indulgent attention to various points whereby they daily ſuffer, in diſcharge of the truſt repoſed in them, are in duty bound to lay before your Excellency ſeveral grievances to which the Britiſh ſubjects are expoſed, by diſattention to the Treaties, in manifeſt prejudice of their commerce.

THE fifth article of 1654 is ſo explicit, and makes ſuch judicious proviſion for the ſecurity of their debts in caſes of confiſcation by the Court of Inquiſition, that, it might be preſumed, from the clearneſs of the expreſſion, the ſenſe could be ſubject to no miſinterpretation, and that the effects of the delinquents ſhould irremiſſably be in the firſt

place

place appropriated to the payment of their debts; but the practice of latter times too plainly evinces the contrary. This is so clearly illustrated in a Memorial addressed to the Committee (which they take the liberty of presenting to your Excellency) that they have only to confirm the facts, and to adjoin some certificates in proof of these unjust measures, to make appear that these proceedings, in these cases, are far from being conducted with lenity and justice, in deference to the treaties, as was formerly practised.

The *Junto de Commerçio* or Board of Trade, of late years established upon principles contrary to the antient laws of this kingdom, and the privileges conferred on foreigners who reside here, must be productive of the most pernicious consequences; it tending to deprive the British subjects of great part of the large capitals due to them from those of his Most Faithful Majesty, by granting protections upon all occasions to such of their debtors as are disposed to claim it, stopping the execution of all sentences issued by the Judge Conservator, debarring them from making any attachments for the security of their debts, and obliging them to acquiesce to whatever dividends the said Board may in future distribute from the effects, which the bankrupts are pleased to deliver in as the remainder of their capitals.

By these means the British Merchants are arbitrarily compelled to submit to the sentences of this new Tribunal, and to behold general acquittances given

given to their debtors, in open violation of the thirteenth article of the Treaty, wherein is expreſſed that

" They ſhall not be hindered by any permits or
" protections to be granted by the King of
" Portugal to his ſubjects, or others frequent-
" ing his dominions, from recovering their
" debts; but they ſhall have a right to ſue any
" man to juſtice for the recovery of any juſt
" debt, although he be ſheltered under the
" patronage or protection of any perſon what-
" ſoever, or ſecured by any Alvara, or whether
" he be a farmer of the revenues, or inveſted
" with any other privilege."

It is remarkable that, ſince the eſtabliſhment of this tribunal, only ſome trifling dividends have been made among the creditors of the bankrupts, and that in theſe caſes ſuch proofs of the debts are demanded as are frequently impracticable to be given; ſince even bonds of the debtors, confeſſed by themſelves or atteſted by a publick notary, are deemed inſufficient, without an addition of ſuch witneſſes as the Members of that Board are pleaſed to require.

Royal letters of favour, which of late years we have had frequent inſtances of, furniſh another cauſe of complaint, being derogatory to the tenor and ſpirit of the Treaties which give the Britiſh ſubjects full ſcope to demand their juſt debts in oppoſition to all protections whatſoever. Theſe royal

letters, termed *Moratorios interinos*, ſuſpend all proſecutions during the debate in the King's Council, whether or no they ſhall be carried to a further extenſion; and this conſultation frequently taking up ſeveral years, the creditors are debarred during that interval from purſuing the common courſe of law, towards ſecuring their debts; or for a ſtill farther term of years, in caſes where his Moſt Faithful Majeſty complies with the requeſt of the party by granting a formal *Moratorio*. Theſe letters ought by no means to be prevalent, in regard of debts due to Britiſh ſubjects, ſeeing that by the ſeventh article of the treaty there can be no appeal but to the *Relaçam*, there to be determined in the ſpace of four months.

In a ſeparate article of the Treaty it was plainly ſtipulated, that the duties on all goods of Britiſh manufacture ſhould at no time exceed twenty-three per cent. on favourable valuations, according to the Cuſtom-houſe book of rates, nor thoſe valuations be ever altered without mutual conſent; to which end the Conſul General ſhould chuſe two merchants to examine whether there be any juſt grounds for ſuch alterations. This, it is plain, is wholly diſregarded. The advance of the duties to twenty-ſeven per cent. verifies the failure of one part of it; and the extraordinary riſe in the preſent rating of the goods is too notorious to admit the leaſt doubt of the breach of the other. The old book of rates has been, for ſome time paſt, totally ſuppreſſed, and the eſtimate of goods left to the wanton deter-

mination

mination of the officers, who are become as well parties as judges, ſince by a late inſtitution Cuſtom-houſe ſalaries have been ſuperceded, and in lieu thereof a certain proportion of the actual duties were appropriated to their payment.

As therefore an enhancement of duties is an increaſe of the officers income, they extend to the utmoſt a mercenary power upon which there is no reaſonable check; and as the Britiſh manufactures were before rated proportionally higher than thoſe of other countries, they can leſs bear theſe advances, and conſequently their conſumption in this kingdom muſt gradually decreaſe.

The ſeveral articles prohibited by the pragmatick law affords one glaring inſtance of the preſent ſchemes, to reduce the commerce from Great Britain to Portugal; as does the particular decree to ſuppreſs the uſe of Britiſh tanned leather another: But it would be endleſs to enumerate to your Excellency the various meaſures which have been of late years propagated with that view.

The numberleſs innovations made of late years in the charges upon ſhipping, is a very great diſcouragement of the Britiſh navigation to this kingdom. The twentieth article of the Treaty regulates how that ought to be governed in the following manner:

" The people and merchants of the Republick
" of England, who frequent the dominions

" of the King of Portugal, upon account of
" trade, or who arrive at his harbours with
" their ſhips, ſhall not pay for anchorage
" or other port charges, or other duties, or
" ſums of money more than thoſe which are
" cuſtomary to be paid to the King and Cham-
" ber of Liſbon; but if any ill cuſtom ſhould
" introduce others for the future, they ſhall
" not be paid."

THE preceding article, it is apprehended, in direct terms reſtrains his Portugueſe Majeſty from levying any additional charge on Britiſh ſhips, fixing at a ſtandard for futurity what was paid in 1654; and notwithſtanding, ſuch accumulations have from time to time been made, that the port charges are now become double what they were at that period.

Some Principal Inſtances are:

THE impoſing a new tax of two hundred reis per ton on every ſhip, under the denomination of light money, only when they return out fully loaden with the produce of the country; in which caſe this exorbitant impoſt is mitigated to fifty reis per ton.

THE charge of one million five hundred reis on every veſſel, as well ſmall as great, by way of raiſing a ſalary for the members of the Board of Trade. And

To theſe might be added ſeveral ſmaller appointments to officers, and emoluments claimed by them, to the perpetual harraſſment and burden of trade.

It has till very lately been a ſtanding cuſtom with ſuch ſhips as touch at the port of Liſbon for orders and informations of the ſtate of markets, to ſuffer them to return out again in the ſpace of twenty-four hours, without any charge, agreeable to the expreſſion in the ſecond article of the Treaty.

> " And with the ſame liberty to depart from
> " thence with their goods and merchandize,
> " and all other things whatſoever, either to
> " their own or foreign countries, as they ſhall
> " think fit; and that without any hindrance
> " or impediment."

But this is now obſtructed, and *Franquias* muſt be taken, which beſides creating a heavy charge, generally cauſes a conſiderable delay, and frequently a reduction of price upon the cargoes at the markets where they are forwarded.

The proceedings of the Health officers appointed by the Senate to inſpect into the quality of proviſions, though the laſt grievance mentioned, is not the leaſt in importance. The ſeventeenth article of the Treaty ſpeaks very clear to this point.

> " If it happens that any controverſy does ariſe
> " between the ſaid King's Inſpectors, Officers or
> " Miniſters,

" Miniſters, and the ſaid Merchants, concerning
" the goodneſs of fiſh or any other ſorts of
" proviſions whatever, which ſhall be carried
" to any of the ſaid King's dominions, the
" ſame ſhall be determined by the arbitration
" of good men, provided they are Portugueſe,
" who ſhall be equally choſen by the Magi-
" ſtrate of the place and the Conſul of the
" Engliſh nation, and they ſhall determine the
" buſineſs in ſuch manner, that no damage
" may accrue to the owner in the mean time
" while the matter is in diſpute."

However, it is not attended to, and the perſons employed in this office aſſume the whole authority to themſelves, adjudging without appeal, fiſh, corn, &c. to be caſt into the river as corrupt; raiſing their emolument upon the ruin of the proprietors, as their ſentence, however it be unjuſtly given, is always attended with fines and fees, from the perſon they condemn, to the officers benefit.

The Conſul General and the Committee, in this and their preceding Memorials, having offered to your Excellency's notice the heads of the principal grievances, which have gradually encroached upon the national Treaties, humbly flatter themſelves that what they have had the honour to repreſent will ſufficiently demonſtrate the juſtice of their complaints.

They have endeavoured, as much as poſſible, to confine themſelves to a plain narration of undoubted

doubted facts, convinced that ſuch muſt carry full weight before a candid Judge, of extenſive knowledge in the laws and intereſts of commerce. The indulgence ſhewn by his Majeſty in graciouſly attending to the remonſtrances of the Factory, his royal wiſdom apparent in ſelecting your Lordſhip for his Repreſentative at this Court, and the aſſurances which your Excellency has been pleaſed to give of employing your efficacious good offices towards obtaining proper redreſs, incite the moſt ſanguine hopes of ſpeedily ſeeing the Britiſh rights firmly re-eſtabliſhed in this kingdom, as a ſhield to the property of every individual of his Majeſty's ſubjects connected with it; and that the Britiſh commerce, now languiſhing under the preſent reſtrictions, may again revive, and continue to Great Britain thoſe uſeful ſupplies which muſt ever render it an object worthy of national regard.

Liſbon, September 10, 1760.

A RE-

A REMONSTRANCE *relating to the Prejudice ariſing from the Eſtabliſhment of Companies, for carrying on the* Brazil *Trade. Preſented to the Right Honourable the Earl of* KINNOULL, *his Majeſty's Ambaſſador Extraordinary and Plenipotentiary at the Court of* Portugal, *May* 24, 1760.

THE erection of trading Companies, from hence to the *Brazil*, muſt neceſſarily produce the moſt deſtructive conſequences to the Britiſh Commerce, not only by diminiſhing the export of our manufactures, but alſo by leſſening the import of the coin of Portugal into Great Britain.

THESE Companies have ſolely the permiſſion and privilege to ſupply the Brazils, and ſome of the Directors have openly declared, that their views and deſigns are to prefer the exportation of the commodities of their own country produce, which conſequently muſt find a ſale, when no other goods are in competition with them, either in quality or price.

To this end they are encouraging and eſtabliſhing ſeveral new manufactories, making new laws to prevent the exportation of wool (obliging the farmers to ſell at a low price to the clothiers) tempting foreign artificers to enter into their employment, and aiming at all methods to render this country leſs dependent on a trade with other nations.

As

As yet there have been but two Brazil Companies eſtabliſhed, one for *Maranham* and *Grao Para*, the other to *Pernambuco*.

THE *Maranham* Company was eſtabliſhed in the year 1756, with a capital ſtock of one million two hundred thouſand cruzados: no dividend ſince the firſt inſtitution has been made, and it is generally believed, though their *Cacao* ſold the laſt voyage to great advantage, that by ill management, uſual to moſt Companies, their ſtock is conſiderably diminiſhed.

BEFORE the erection of this Company the trade to *Maranham* was in a moſt flouriſhing condition, annually employing at leaſt fifteen or ſixteen ſhips, which number is now reduced to three or four.

THE *Pernambuco* Company has been but lately eſtabliſhed; the capital propoſed to be raiſed by ſubſcription is to be three million four hundred thouſand cruzados, which ſum is not yet compleat, the greateſt part of ſubſcriptions hitherto, having been made in ſhipping, the owners not having any other employment for them; and as for the monied merchants, few have ſubſcribed but ſuch as have been powerfully prevailed upon, &c.

THE trade and navigation to *Pernambuco* is much more conſiderable than that to *Maranham*, for the laſt fleet from thence conſiſted of 45 ſhips fully loaden with ſugars, hides, red wood, ſome gold, &c.

And if this Company proves as unſucceſsful as that of *Maranham* (as it probably will, and is expected to be) the conſumption of our Britiſh manufactures muſt alſo conſiderably leſſen and diminiſh in that part of the Brazils.

The formation of a third Company to the *Bahia* is alſo projected; ſome ſay it will be put off for another year, not to interfere with the *Pernambuco* Company till the ſtock of that be compleated. This Company will require a very large capital; but infinitely greater muſt be the ſtock of a fourth Company deſigned and projected for ſupplying the *Rio de Janiero*, the mines, &c. in that part of the Brazils.

The trade to all the ſettlements in the Brazils, if not entirely, has chiefly been carried on by the credit that the foreign nations have given to the Portugueſe merchants, particularly by the Engliſh: ſo ſoon as their private traders are excluded from a continuation of their commerce and only way of livelihood, by the eſtabliſhment of theſe Companies, no payment of debts owing for goods ſold at credit, can from them be expected, but will infallibly be loſt, though the Companies ſhould be of ſhort duration.

A great capital is outſtanding in the Brazils, moſtly due by the merchants at the mines to merchants at the *Rio de Janiero*, *Bahia*, &c. and to factors for goods bought upon credit in Portugal by the Portugueſe merchants and ſent to the Brazils, adjuſted to be paid at the return of the fleet belong-

ing to the place where they are ſent to, which agreement is ſeldom complied with, and the foreign merchant is ſatisfied with receiving half or even a third of his debt by the firſt fleet, and does not think it very bad pay if he receives the whole at the return of the third fleet.

Every perſon in buſineſs here is ſenſible, that generally when the Brazil merchant or factor, upon the arrival of the fleet, receives the money ſent him by it, he goes to his foreign creditors, to ſee if he can have the aſſortment of goods he wants; that if he does not find with them the ſaid aſſortment, or farther credit, he carries the money to other foreign houſes, and there buys the goods he may have occaſion for, and gets credit by giving in part of payment the money due to his former creditors.

In the ſame manner when the merchant from the mines comes to the *Rio de Janiero*, &c. and finds that his creditors cannot give him the aſſortment of goods he wants, he goes to the houſe of thoſe who can ſupply him, and inſtead of paying to his former creditors the money he brings, pays it to thoſe who ſell him the aſſortment, and by this means gets credit for what he had not money to diſcharge.

By forming theſe companies, the Brazil Merchants, who owe the greater part of the money due to them at the mines, will be excluded that trade, and by not being able to ſupply the Merchants there with goods as uſual, they will loſe the ſaid debts, as

the Merchants at the mines will keep their ready money to buy goods, and obtain credit from the Companies, and by the loſs of the Brazil Merchants debts there, they will be rendered incapable of paying the foreign Merchants here.

It is computed that the produce of the three fleets from each of the places in the Braſils they are bound to will not pay the ſum that is due to foreign nations; ſo that ſuppoſe the Merchants at the mines can be compelled to pay their debts, how is it poſſible for theſe Companies to carry on ſuch an immenſe trade without receiving ready money, until theſe debts are diſcharged by the ſaid Merchants: it is therefore evident that the intention of forming theſe Companies is purely to deprive the foreigners of the vaſt ſums due to them, and to ſell goods in the Brazils for the ready money, which ought to be remitted here to pay the ſaid foreign creditors.

There are very few wealthy Portugueſe, of whom the greateſt part owe much more than their capitals to the ſtrangers; ſo it is plain that the ſubſcriptions into theſe Companies muſt be made with the money due to the ſaid foreigners, and that it is manifeſt injuſtice to make theſe ſubſcriptions without firſt paying their debts; and until they do honeſtly pay their debts, we may juſtly ſay they make Companies with foreign capitals.

Soon after the erection of their intended Companies, they threaten us that they will ſettle in every city

city and town of trade in England Factors of their own to ſupply their Companies with goods at firſt hand, which if effected will entirely change the circulation and channel of trade from the hands of Britiſh ſubjects to Portugueſe, and conſequently we ſhall be deprived of the great advantage of our commiſſion buſineſs, and other profits that ariſe from the ſale and purchaſe of our commodities, which to the Britiſh importer, upon an average, may amount to 12 or 15 per cent. and it cannot be ſuppoſed that the Company will pay this advance when they can have their goods directly from England, and upon their own account, conſequently Great Britain muſt annually loſe the ſaid 12 or 15 per cent. the profit made by the Britiſh importer. Such an alteration will be extremely hurtful to our navigation; the trade being entirely carried on by the Portugueſe, they will without doubt employ their own ſhips; and alſo muſt of courſe be attended with two certain prejudicial conſequences, viz. It will force the major part of the Britiſh Merchants and Factors now reſiding in Portugal to leave the country, and will extremely influence the price of our manufactures in Great-Britain, when the multitude of buyers and traders are ſo reduced, and the whole trade to Portugal confined, and only carried on by a few Portugueſe Factors ſettled in the trading cities of England.

We truſted the ſubjects of the King of Portugal in full faith that the trade would continue free, and be carried on upon the ſame footing as it was at the time we gave them credit; let them pay us our debts;

debts; and leave it to our option, whether we will carry it on under the new regulations; but to invite us, under ſpecious appearances, to ſink a large capital in a trade, and then lay a dead weight on it, is highly unjuſt, and greatly prejudicial to the intereſt of Great-Britain.

A COMPANY will not take off the ſame quantity of goods as is expended by a free private trade, for it is by its charter engaged in many heavy expences, that the trade hitherto has been exempt from, and conſequently muſt import goods into the Braſils conſiderably dearer than the private trader. This is a circumſtance that we know by daily experience leſſens the conſumption of goods, as when dear much fewer are expended in Portugal: beſides, it will be more advantageous for the Company to make as large profis as they can with the ſmalleſt outſets; whereas the private trader will carry on buſineſs for one half, nay one third of the profit, and try to make it up by running off a large quantity of goods.

AN excluſive Company is to be looked on as a ſingle buyer, from whence ariſe the following inconveniences.

Company Will make their own prices for the goods they purchaſe here, well knowing that as we have no other vent or market for them, we muſt in the end let them go on their terms.

Free Trade We have the choice of our debtors; if one man will not buy, another may, conſequently

we

we are not obliged to let goods go at the low prices, to be feared the Company will purchaſe at.

Company Will keep up the prices of their goods in the Braſils, where they intend to import barely the goods neceſſary for the ſupply of the place, their ſcheme being with a ſmall outſet to get large profits.

Free Trade Will underſell, and be content with half the profit on double the quantity of goods; a point extremely neceſſary to be conſidered, both as it expends more of our manufactories, and employs more ſhipping.

Company We have no farther ſecurity for the goods delivered to the Company than to ſee that an entry is made of them in the books, nor can we oblige the Company to pay at the time fixed.

Free Trade We have bonds in proper form from our debtors, and in caſe of failure we have it in our power to ſue them when we think proper.

Company Their capital, by the connivance of the Directors, may be applied to certain private uſes, not conſidering that it is in fact the capital of foreign Merchants who have ſold their goods on credit to the Company; it is ſaid the Directors of the *Maranham* Company have ſecretly applied a conſiderable ſum, for which reaſon no dividend has hitherto been made, notwithſtanding that Company has now been eſtabliſhed above four years.

Free

Free Trade We have not our whole capital ſhut up in the hands of a ſingle debtor, for if one debtor does not pay us, another may, ſo our money is continually circulating; beſides the ſubſtance of a private Merchant cannot in a private manner be ſecretly applied without his knowledge and conſent.

Company For payment of our debts we muſt either purchaſe goods at the Company's public auction (which will be of courſe at ſuch times and ſeaſons as ſuits their intereſt beſt) or wait till two or three months more are elapſed to give the Company time to receive money of their purchaſers.

Free Trade We begin to receive the payment of our debts a month after the fleet's arrival; every private trader is deſirous to pay the ſooneſt he can, to recommend himſelf to the Merchant, in order that he may obtain from him a freſh credit.

Company We all know that the whole trading part of this kingdom is averſe to theſe Companies, and that the Braſil Merchants in America are equally ſo; how then can it be thought that their eſtabliſhments can be of a long duration, and if they once drop, what is to become of their debts, nobody being obliged to pay them, for the very Directors are obliged only for their ſtock.

Free Trade Every man is cautious and upon his guard, and if any of his debtors fail, it is but a

ſmall

ſmall part, whereas the overſetting the Company ſweeps away the whole at once.

The clandeſtine trade carried on by the Portugueſe in the Braſils to the Spaniſh Colonies, ſo very advantageous and profitable to this nation, will alſo be infallibly loſt, if their intended Companies take effect, who will not practiſe thoſe methods by which private traders reap great profits, and generally make their fortunes. This trade takes off a large ſupply of goods, and brings conſiderable ſums of ſilver in return to Europe in the Brazil fleets, which is chiefly re-ſhipped to England on board his Britannick Majeſty's ſhips of war and packet-boats, conſequently the conſumption of Britiſh manufactures at Buenos Ayres, and in the Spaniſh ſettlements adjoining to the Colonia do Sacramento in the river of Plate, will be conſiderably leſſened and diminiſhed.

The heavy expences of the Company will greatly enhance the price of their goods imported in the Braſils, and in a juſt proportion the produce of that country ought to be raiſed in value, and in this caſe the prices of ſugar, cocoa, &c. will be ſo high, that the foreign markets of Europe will be ſupplied at a much cheaper rate by other nations. But it is expected that the inhabitants of the Braſils will be obliged to buy the Companies goods at the high prices which muſt be fixed on them to ſecure a profit, and that the inhabitants will be forced to take the low prices offered for their ſugars, cocoa, &c. that the Company may be enabled to diſpoſe of

them without loſs, for other countries of Europe, which terms the people there muſt inevitably comply with.

By theſe methods the induſtry of the ſaid people will be ſo much diſcouraged, that the produce of that country will daily decreaſe; and this is already confirmed by what has happened at Maranham by the above methods purſued there, ſo that the conſumption of European goods will decreaſe in that country in the ſame proportion with their trade.

By the treaty with Oliver Cromwell, it is expreſsly ſtipulated, that the trade to the Braſils ſhall be general and free; in ſhort, if theſe Companies are ſuffered to be erected, and their preſent deſigns put into execution, it muſt and will inevitably reduce the ballance of our trade with this kingdom to a par, and exchange of one commodity for another; conſequently it will put an entire ſtop to all exportation of gold from hence, eſpecially if the importation of their diamonds be permitted into Great-Britain.

We likewiſe beg leave to obſerve that all their preſent ſchemes, breach of treaties, and innovations (ſo apparently levelled at our deſtruction) do not proceed from any inveteracy of the generality of the Portugueſe to our nation; far from it, for in general they eſteem the Britiſh ſubjects.

The erection of excluſive monopolizing Companies is expreſsly contrary to ſeveral of the ſubſiſting

ſifting treaties between this kingdom and Great-Britain, viz.

Article 2d of CROMWELL's *Treaty.*

BY this article it is agreed that the ſubjects of each nation ſhall have entire liberty of going to all ports and dominions belonging either to Great Britain or Portugal, and there to reſide and trade, if they think proper, without ever being obliged to take out any licenſe general or ſpecial for that purpoſe.

By the 3d Article of ditto,

IT is expreſsly ſtipulated that we ſhall not be obliged to buy of monopoliſts, nor at fixed prices, paying only the duties of March 1653-4.

The 10th Article of ditto

Is very full in regard to granting us the liberty of a free trade with the ſubjects of the King of Portugal.

By the 11th Article of ditto,

WHICH relates wholly to the Brazils, we have clearly and expreſsly full liberty to go into any of their ports in thoſe ſettlements with our ſhips, and if we think proper, there to live, trade, and inhabit.

BY the treaty between the two crowns, concluded on the marriage of Queen Catherine, all former

treaties with our privileges were fully ratified and confirmed, only with this reſtriction, that not more than four Britiſh families ſhall be allowed to reſide in each place or conqueſt in the Braſils, but there is no reſtriction of our going thither with our ſhips to trade, if we think proper.

By an ALVARA *or Royal Decree dated 4th July, 1657.*

THE 10th and 11th articles of Cromwell's treaty are expreſsly ordered to be obſerved.

Arguments in favour of Excluſive Companies fairly ſtated and anſwered.

I. THAT his Moſt Faithful Majeſty has an undoubted right to lay the trade in his own dominions under what regulations he thinks proper, being obliged by Treaty only to ſuffer throughout his dominions the free ſale of Engliſh goods, in which he no ways circumſcribes the Britiſh merchants, there being no law to hinder them from ſelling their goods to any perſon that will buy them.

ANSWER.

TO confute the firſt part of the above aſſertion, it ſurely will be ſufficient to appeal to the judgment of any perſon who has read the Treaty of 1654, between the two Crowns, which gives the ſubjects of Great Britain the moſt ample right to a free trade in Portugal, and its dominions, which right we have ſufficiently made appear, and whether we appeal

peal to the letter or the ſpirit of the Treaties, an ample trade, free from any limitations whatſoever, either in buying or ſelling, is granted to the ſubjects of Great Britain throughout the dominions of Portugal, any *ſubſequent* laws, regulations or decrees to the contrary notwithſtanding.

It therefore plainly follows,

That his Moſt Faithful Majeſty has not a right to lay the trade in his dominions under what regulations he thinks proper, when ſuch regulations interfere with his *prior* engagements with the Crown of Great Britain. But in order to give the argument in ſupport of his Moſt Faithful Majeſty's right, the moſt impartial and fulleſt ſcope, we will here obſerve, that in the ſecond article of the Treaty of 1654, which gives us the liberty to a free trade in Portugal and its dominions, there are theſe words, viz.

" Saving however all Laws and Statutes of each
" place."

By which can be meant only the Laws and Statutes in force at the time that the Treaty was concluded.

For to admit in his Portugueſe Majeſty a right of eſtabliſhing from time to time ſuch Laws and Statutes, as may appear convenient to him, no one article of our Treaty can be binding, which defeats the very end and purpoſe of it, and indeed gives an opening to evade the moſt ſolemn engagements.

In

In Anſwer to the Aſſertion,

THAT his Moſt Faithful Majeſty is obliged by Treaty only to ſuffer throughout his dominions the free ſale of Engliſh goods, in which he no ways circumſcribes the Britiſh Merchants, there being no law to hinder them from ſelling their goods to whomſoever will buy them;

We ſhall only beg leave to obſerve,

THAT it is a meer evaſion, for the Treaty that ſtipulates our right to a free trade, can never be ſuppoſed to leave the Kings of Portugal a liberty of prohibiting their ſubjects buying our goods, when they acknowledge in us a right to ſell to any perſon whatſoever.

THIS would indeed be admitting our woollen manufactures into this kingdom, to the greateſt prejudice and diſadvantage of Great Britain, which can never be ſuppoſed was the intention of the Treaty.

UPON the whole therefore it is manifeſt, that the new regulations lately eſtabliſhed in Portugal, and particularly that of confining the Brazil trade to Excluſive Companies, are directly contrary, both to the letter and ſpirit of our Treaties.

THEREFORE,

THAT his Moſt Faithful Majeſty, agreeable to his engagements with the Crown of Great Britain, has not a right to enforce their obſervance.

AND

And in order to prove the right of his Moſt Faithful Majeſty to make what regulations he thinks proper in his own dominions, it is ſaid:

That the Treaty of 1654 is looked upon to ſecure reciprocally to the ſubjects of the contracting parties, the enjoyment of thoſe rights and privileges claimed by us in virtue of it. Whereas it is well known, that the ſubjects of his Moſt Faithful Majeſty are not allowed in England many of the advantages granted to thoſe of Great Britain in Portugal, which is deemed a manifeſt violation of this Treaty, and as ſuch leaves his Moſt Faithful Majeſty at liberty on his ſide to make what regulations he thinks may beſt promote the intereſt of his kingdoms.

In anſwer, we ſhall obſerve, that the Treaty of 1654, does not reciprocally convey to the ſubjects of both nations the ſame rights and privileges as may eaſily be ſeen..... for though it is true that the *ſecond article* gives to all Portugueſe ſubjects the ſame *right* freely to trade in the dominions of Great Britain, that is granted to Engliſhmen in thoſe of Portugal; yet it is to be obſerved, that this right to the Portugueſe is by the ſame article confined

> "To thoſe places in which there is at preſent,
> "or has been, commerce in times paſt. And
> "that without any *hindrance* or impediment,
> "ſaving however, all the Laws and Statutes
> "of each place."

And

And this was ſo clearly underſtood at the making of the Treaty, that the third, tenth and eleventh articles were added, whereby is granted ſpecifically to the *Britiſh ſubjects* in the dominions of Portugal, not only in Europe, but in every other part of the globe, *free from any confining clauſe*, the ſtrongeſt *right* to carry on the moſt ample and extenſive trade, both in buying and ſelling: but it is no where ſaid the Portugueſe ſhall enjoy the ſame in the dominions of Great Britain. And it is obſervable, that where this Treaty is deſigned to convey a reciprocal benefit to both nations, it is clearly and plainly ſo expreſſed in the particular article.

THEREFORE,

The beſt confutation of this argument is the Treaty itſelf, whereby it manifeſtly appears;

That the *ſubjects of Portugal* have no *right* to a free trade in the dominions of Great Britain, except

> " In ſuch places where (at the time of concluding the Treaty) there actually was, or had been commerce in times paſt."

And farther:

That many other privileges *granted* to the ſubjects of Great Britain in Portugal, do not extend to thoſe of his Moſt Faithful Majeſty in England; indeed many of them would be found uſeleſs there, for *England* is the land of liberty, and needs no proviſional

viſional clauſes in Treaties to ſecure to every dweller in it, whether native or foreigner, thoſe *bleſſings* of which it was neceſſary to ſtipulate the grant to us in Portugal.

The ſecond argument in favour of Excluſive Companies in Portugal, is, That this eſtabliſhment no ways affects Great Britain, as a nation, it being indifferent whether its manufactures are introduced into the Portugueſe colonies by excluſive Companies, or by private traders, provided that the ſame quantity be exported from England, as it is affirmed will be the caſe.

In the foregoing pages, we have plainly demonſtrated the abſurdity of this aſſertion, and ſufficiently proved that the natural tendency of theſe Companies is highly and eſſentially prejudicial to Great Britain, as a nation.

From theſe Conſiderations,

1ſt. We have obſerved, that they will render the receiving our old debts, not only precarious, but in ſome meaſure *impracticable*.

2dly. That this eſtabliſhment will leſſen the amount of our imports into Portugal.

3dly. That it will give the Portugueſe an opportunity of purchaſing our goods on their own terms, and by overſetting the body of Britiſh Merchants,

eſtabliſhed in Portugal, a large ſum, their annual profit, will be a dead loſs to Great Britain.

4thly. We have alſo proved that their *Eſtabliſhment* will decreaſe the exportation of bullion from Portugal, and reduce many other profits here too tedious to enumerate; and therefore now only beg leave to obſerve, that commerce is of a nature too delicate to bear any great revolutions, for, as with liberty it flouriſhes and improves, ſo under reſtraints it generally grows languid and falls to decay.

When buſineſs is collected into united bodies, either the purchaſer or vender will have it in their power to make their own terms; if the buyer prevails, the prejudice is obvious; but admitting the ſeller to gain the aſcendant, ſtill the advantage will be equal to Great Britain, as a nation; for the overrating our manufactures will give encouragement to thoſe of our neighbours, who are upon the watch to improve every opportunity for their introduction, and they have the advantage of lower valuations in the Cuſtom-houſe to pay the duties on, than the Britiſh Merchants.

The third Argument in favour of Excluſive Companies, is,

THAT our effects will be ſafer in the hands of a Publick Company, and that the foreign merchants by truſting a ſet of private traders of no capital, have contracted many bad debts, which they have not the leaſt proſpect of recovering.

NOTWITHSTANDING the above aſſertion, we can with great truth aſſure your Excellency, that we verily believe that the debts loſt by truſting private traders, have not amounted to above one and a half per cent. on the ſales, double of which ſum we would chearfully allow to have a number of purchaſers for our goods, inſtead of being confined to ſell only to a Company; well knowing, as muſt every perſon concerned in trade, that we ſhall find a much more conſiderable difference in the prices of our goods, when we are once left to the mercy of a ſingle buyer.

WHAT ſecurity have we for our money in caſe the Companies ſhould be of ſhort duration?

SUPPOSE the next Prince who aſcends the throne of Portugal ſhould diſſolve theſe Companies, what is to become of our debts, and to whom is Great Britain to apply for the property of her ſubjects?

WE cannot compel theſe Companies to pay their debts, with the ſame facility as we can ſue a private merchant.

BESIDES, we are deprived of one thing very neceſſary to be obſerved by every man in trade, the caution of dividing our riſks.

IF a private trader fails, he carries off but a ſmall part of our fortunes, but the fall of a Publick Company ſweeps away the whole at once.

BUT to prove beyond a contradiction the fallacy of the arguments uſed in ſupport of Excluſive Companies, and that they are calculated to blind thoſe perſons who are not verſed in trade; let the queſtion be fairly put to the whole body of Britiſh Merchants reſiding in Portugal,

Whether they chuſe to have the Trade carried on by Excluſive Companies, or by private free Merchants?

AND it will appear, that not above three or four of that numerous body will vote for Companies, who, perhaps, either from ſome private connexions with the Court of Portugal, or from views of getting the commiſſion to purchaſe in England the Companies' aſſortment of goods, may be induced to differ in ſentiments from the reſt of their community.

The fourth Argument in favour of Companies.

THAT we ſhould not complain before we are aggrieved, and that all our preſent clamours are only founded upon meer ſuſpicions and apprehenſions.

ANSWER.

THAT complaints ſhould not be made without a cauſe, is not to be diſputed; but they ſeldom ſtart without ſome foundation: it certainly is prudent to ward againſt a depending blow or evil; the man that waits till it cruſhes him, deprives himſelf of the power of ſeeking a remedy.

IT

IT has artfully by ſome been ſuggeſted, that Great-Britain has broke through the treaty of 1654, and 1703 particularly, by increaſing the duties in England on Portugal wines.

ANSWER.

THE ſecond article of the treaty of 1703, to which we refer, certainly will juſtify us in raiſing the duties on Portugal wines, provided that the duties on the wines of France are increaſed one-third in proportion more than on the wines of Portugal, which it is well known has conſtantly been complied with ; and that when the duties were raiſed in England, that proportion was ſtrictly attended to, and juſtice done to this kingdom. The preference and favour on our part to Portugal have always been maintained, whilſt we unfortunately can boaſt of neither at the Cuſtom-houſe of this city.

BUT leſt any doubt ſhould remain, we ſhall here mention a caſe in which we are alſo ſaid to have violated the treaty of 1654, viz.

BY the frequent Acts of Parliament that have from time to time increaſed the duties on foreign commodities imported into England, when in the ſecret article of this treaty, it is ſaid, that the ſubjects of Portugal ſhall pay the taxes and duties newly ſettled in May 1654.

In anſwering this we ſhould be glad to have found ſome particular inſtances mentioned, to prove that the duties on the produce of Portugal (wines excepted) have been raiſed ſince the date of the treaty.

But ſuppoſing it has been done, we do not ſee how it will appear from the tenor of the article, that we have not a right to increaſe theſe duties, or even to lay on freſh ones. Let the article be carefully and impartially examined, it is verbatim as follows:

> " AND the above-ſaid inhabitants of the ſaid
> " kingdom (of Portugal) trading in the
> " dominions and lordſhips of this Repub-
> " lick, ſhall pay the preſent taxes and du-
> " ties as they are newly impoſed and ſettled
> " in this preſent month of May, 1654, ac-
> " cording to the uſance and laws of the
> " place, both parties obſerving the laws
> " and ſtatutes of each place reſpectively."

By which it indeed appears, that the Portugueſe are to pay the duties and taxes of 1654, but it is neither ſaid, nor, as we can find, implied, that they ſhall pay no others, which brings the argument on our ſide.

We have farther to obſerve as a ſtrong refutation of their aſſertion,

THAT the crown of Portugal claimed the benefit of this treaty, *now* ſaid to be *violated and*

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ſet aſide by us, in the year 1735, when in virtue of it a powerful Britiſh fleet was ſent to Portugal, and there continued twenty-two months, at the expence of a million ſterling to the nation, to protect the trade and dominions of that crown.

The rights of this treaty were farther claimed by his Moſt Faithful Majeſty about the year 1750, when a petition was made to Parliament by the Weſt-India Merchants, ſetting forth the prejudice ariſing from the importation of Portugal ſugars into Ireland, and praying a prohibition of it, which was rejected, and the ſugars continue to be permitted to an entry there, upon the repreſentation of the Portugueſe Miniſter, that the right to do ſo was founded on the treaty of 1654.

Soon after the great earthquake of 1755, the city of Liſbon felt the benefit of the treaty, *though not claimed*, by the humane and ready ſupply of the neceſſaries of life from the King and Parliament of Great-Britain, whoſe noble concern for the diſtreſſes of its ancient ally could not be more ſtrongly expreſſed than by a free gift, which coſt the nation one hundred and fifty thouſand pounds ſterling.

A little time after the benefit of this treaty was claimed by his Moſt Faithful Majeſty, in order to obtain the liberty of exporting culm *duty free* from England to his own dominions, which was granted by the King and Parliament of Great-Britain, from the noble and diſintereſted motive of aſſiſting to

rebuild

rebuild the capital city of our good friend and ally the King of Portugal.

THE benefit of this treaty has been claimed ſo lately as the year 1759, in an inſtance of a Portugueſe ſhip called the Santo Antonio e Almas, Franciſco Xavier da Coſta maſter, from Nantes to Liſbon, taken by one of our privateers, and carried into Falmouth, where the cargo was condemned by a decree of our Court of Admiralty, as belonging to the enemies of Great-Britain, which decree was reverſed by the Lords of Appeal, on the repreſentation of the Portugueſe Envoy in London, the treaty of 1654 being by them acknowledged a ſubſiſting one, and in virtue of the twenty-third article of it, the ſhip and goods were reſtored; a privilege, it is well known, Great-Britain has very recently refuſed to the Dutch and other neutral powers.

WHEN their *claims* were made, no violation of the treaty was thought of, but its rights in favour of Portugal largely inſiſted on; from whence we beg leave to argue in our turn,

THAT ſince Great-Britain has, in virtue of treaty, ſo eſſentially complied with the rights of Portugal, his Moſt Faithful Majeſty *is not at liberty* to make ſuch regulations in his own dominions as any ways affect the rights and privileges of a Britiſh ſubject.

WHAT we have obſerved we hope will be thought a ſufficient anſwer to a groundleſs notion induſtriouſly propagated in Portugal;

THAT

That the whole advantage of the ſubſiſting treaties is on the ſide of Great-Britain, and that in fact Portugal receives little or no benefit from them.

Of late years a miſtaken notion has alſo prevailed in England, that the trade to Portugal being ſo eſſentially beneficial to Great-Britain, ſhould not be interrupted by mere punctilios, but that rather our right to privileges of little importance ſhould be waved upon occaſion, not to put the Court of Portugal upon a renewal of treaties, which we cannot expect would be ſo favourable to us, as are thoſe under which we trade at preſent. This doctrine has been ſtrongly inculcated in England to ſerve particular purpoſes; and to give it ſome weight, the Liſbon Factory was repreſented as a ſet of clamorous and obſtinate people, who wanted they knew not what.

But now we have the ſatisfaction to find that the malicious intentions of ſuch reports are plainly diſcovered and diſregarded, his Majeſty having been moſt graciouſly pleaſed to aſſure this factory of his royal ſupport and protection in all its reaſonable cauſes of complaint.

It would therefore be an unpardonable neglect in its members, if the preſent innovations in Portugal were ſuffered to paſs unregarded by them, and it is humbly hoped that this candid and impartial view of their ſituation in that kingdom will plainly evince,

that the new regulations lately made in its commerce are not confined to mere punctilios or privileges of little importance, but that they ſtrike at the very root of our trade, and obviouſly tend to the deſtruction of a conſiderable body of Britiſh ſubjects, in whoſe ſupport his Majeſty's royal interpoſition and protection is moſt humbly implored through your Excellency's interceſſion.

And we do aſſure your Lordſhip that we ſhall ever acknowledge with gratitude your Excellency's kind indulgence in permitting us at this time to lay before you our diſtreſſed ſtate and ſituation in this kingdom, beſeeching your Excellency to repreſent our caſe in the ſtrongeſt and moſt favourable light to our Sovereign,

Who, we hope, will be moſt graciouſly pleaſed to grant us ſuch relief as He in his Royal Wiſdom and Goodneſs ſhall think fit.

TO THE RIGHT HONOURABLE

WILLIAM PITT, Esq.

One of his Majesty's principal Secretaries of State.

The Memorial of Sir Henry Frankland, *Bart. Consul-General, and the Committee of British Merchants, named by the Lisbon Factory to lay before the Earl of* Kinncul, *his Majesty's Ambassador Extraordinary and Plenipotentiary at the Court of Portugal, all matters relating to their trade and grievances,*

Most humbly sheweth,

THAT your Memorialists, in discharge of the trust committed to their care, have had the honour of representing to his Excellency the Earl of Kinnoull the many fatal consequences with which the British commerce in this kingdom is threatened by the establishment of Companies exclusively trading to Brazil; but find, from what his Excellency has been pleased to communicate to them, that he is not directed by his instructions to make any remonstrances to the Court of Portugal on this interesting subject.

YOUR Memorialiſts therefore think it their duty, Sir, to lay the ſame before you, hoping that a plain and impartial account of the ſtate of this trade, from perſons deeply engaged in it, reſiding on the ſpot, and well acquainted with the genius and diſpoſition of the Portugueſe nation, will not be thought improper, at a time when its commerce undergoes ſo many alterations, in which that of Great-Britain appears to be nearly concerned.

AND as your Memorialiſts are ſenſible that a breach of treaty is the only ſolid foundation upon which a national complaint can be grounded, they humbly preſume, in the firſt place, to inquire in what manner theſe eſtabliſhments interfere with the treaties at preſent ſubſiſting between the Crowns of Great-Britain and Portugal; from whence they hope to make appear,

THAT the eſtabliſhment of excluſive Companies in this kingdom is no leſs a direct infringement of treaty, than it confeſſedly is a a meaſure of the moſt extenſive pernicious influence to the trade and intereſts of Great-Britain.

THE ſeveral articles of our treaties, on which we found our right to a free and uncontroulled trade in the dominions of his Moſt Faithful Majeſty, are the 2d, 3d, 9th, 10th, and 11th of 1654, the 12th and 13th of 1661, and the 1ſt of 1703, of which your Memorialiſts beg leave to tranſcribe ſuch extracts as

appear

appear material, making thoſe remarks on each that naturally occur on a careful peruſal of them, ſubmitting, Sir, the whole to your conſideration. The 2d article of 1654 ſtipulates,

" THAT there ſhall be *free commerce* be-
" tween the ſubjects of the two Crowns,
" without any *hindrance* or *impediment*, ſav-
" ing however all the laws and ſtatutes of
" each place."

In which your Memorialiſts humbly conceive that the firſt thing to be conſidered is,

What can be termed *free commerce?*

To them the words ſeem neceſſarily to convey not only the liberty of offering goods for ſale, but the ſame free leave for the Portugueſe to purchaſe of us: for although it muſt be granted in caſe of any reſtriction on either, a commerce may ſtill ſubſiſt between the two nations; yet moſt certainly this cannot with any propriety of expreſſion be termed a *free commerce*, and much leſs can it be ſaid to exiſt without *hindrance* or *impediment*.

To this perhaps it may be replied,

THAT his Moſt Faithful Majeſty has a natural *right* in common with every Sovereign Prince, to lay the trade of his own dominions under what *internal regulations* he pleaſes; and therefore that no treaty can be ſup-

ſuppoſed to limit this power where the intereſts of his people call upon him to exert it: His Moſt Faithful Majeſty by treaty being only obliged to permit throughout his dominions the free ſale of Engliſh goods, a point in which he does not circumſcribe the Britiſh Merchant, there being no law in Portugal to *prohibit him* from ſelling his goods to whoever will buy them.

To which your Memorialiſts offer this plain and ſimple anſwer,

THAT the treaties were evidently concluded (nay in the 12th article of 1661 are expreſsly ſaid to be concluded) to ſecure for every Britiſh ſubject the *full* enjoyments of the benefit of commerce with the ſubjects, and in the dominions of his Moſt Faithful Majeſty, agreeable to which they ſpecifically ſtipulate for us a *right* of carrying on there an ample trade, free from all reſtrictions whatever, either in buying or ſelling; the *full* enjoyments of which, is in fact the only thing that can render theſe treaties *beneficial* to Great-Britain in return for the many ſolid advantages Portugal draws from them. Now,

IF by any regulations, whether *internal* or external, we are deprived of this benefit, it follows,

EITHER that the treaties are infringed; or, That the *benefit* we are to enjoy from them

them is left to be ſettled by ſuch *regulations* as may ſuit his Moſt Faithful Majeſty's convenience.

And what thoſe regulations are like to be appears from the one now under conſideration, from the Wine Company at Oporto: from the increaſe of duties on our goods to 27, though by the ſecret article of 1654, they are never to exceed 23 per cent. from the pragmatick or ſumptuary law, in which the importation of ſeveral Engliſh commodities is forbid: from the inſtitution of the Junta de Commercio, or Board of Trade, whereby our right expreſsly ſtipulated in the 13th article of 1654, of ſuing all our debtors, is no longer allowed us: and from many others, equally tending to injure and diſcourage our trade here; from whence your Memorialiſts muſt draw this obvious concluſion.

That if we are in fact liable to all internal regulations here, then may every article of our treaties be ſuperſeded and rendered to us uſeleſs. Your Memorialiſts, Sir, cannot avoid obſerving the miſchievous conſequences of allowing his Moſt Faithful Majeſty to prohibit any of his ſubjects from purchaſing our goods by the evaſive meaſure of not permitting their exportation to Brazil, unleſs by the Companies; for if this claim is founded on the treaties limiting our right to barely importing the goods for ſale, then may his Moſt Faithful Majeſty in plain terms prohibit all his ſubjects from buying Engliſh goods, which the treaty gives him the ſame right of doing,

as

as of confining theſe purchaſes to any particular body of them. It therefore appears to your Memorialiſts, that by our conſenting at preſent to be hindered and circumſcribed in the moſt valuable part of our *free commerce*, the trade to Brazil, his Moſt Faithful Majeſty may eſtabliſh a right to clog every branch of trade in his own dominions with ſuch *internal regulations*, as may appear to promote the intereſts of his own ſubjects, however fatal they may be to thoſe of Great-Britain, paying in all future regulations as little regard to the *benefit* we have a right to enjoy in his dominions, as has been ſhewn in thoſe already referred to.

As therefore by the eſtabliſhment of excluſive Companies trading to the Brazils, there can no longer be ſaid to exiſt a *free commerce* without *hindrance* or *impediment* between the ſubjects of Great-Britain and Portugal; your Memorialiſts are humbly of opinion, that the 2d article of the treaty of 1654 is, by ſuch eſtabliſhment, clearly and manifeſtly violated.

The 3d article of 1654 ſeems chiefly directed to ſecure for us,

> AN unlimited right of purchaſing and freely carrying away from the dominions of his Moſt Faithful Majeſty all ſorts of wares, goods, and merchandize, granting further to the ſubjects of England a liberty *as they pleaſe* to ſell, traffick, &c.

Upon

UPON which your Memorialiſts have to obſerve, that as this article ſtipulates for us a liberty to ſell and traffick *as we pleaſe*, they are humbly of opinion that we cannot be liable to any reſtrictions; for then in fact we ſhall have liberty to ſell only as the *King of Portugal pleaſes*.

HERE it may be proper to compare this with a ſimilar expreſſion in the 12th article of the treaty of 1661, namely,

"THAT four Britiſh Merchants or Fac-
"tors ſhall have liberty to reſide in what-
"ever places *they pleaſe* of his Moſt Faithful
"Majeſty's dominions in the Eaſt and Weſt
"Indies."

THE expreſſion is preciſely the ſame in both caſes, but your Memorialiſts humbly conceive that it is not hereby intended to ſubject to the regulations of his Moſt Faithful Majeſty the choice of thoſe places in his dominions where our Merchants are to reſide. Now the ſame conſtruction given to the expreſſion *as they pleaſe*, in one of theſe caſes, is moſt certainly applicable to the other, from whence your Memorialiſts with ſubmiſſion take liberty to conclude,

THAT if we have an acknowledged *right* to reſide in what part *we pleaſe* of the dominions of Portugal, we then have the ſame *right* there to ſell and traffick *as we pleaſe*, and in neither caſe are we obliged to do as the King of Portugal pleaſes.

THE 9th article of 1654 is a repetition and a ſtrong confirmation of the 2d, it ſtipulating,

> " THAT the ſales of our goods and mer-
> " chandize ſhall not be *hindered or delayed*
> " for any reaſon whatſoever."

Now if by the eſtabliſhment of excluſive Companies here our imports into Portugal are diminiſhed from what they were before ſuch eſtabliſhments took place, then does it plainly follow,

> THAT the ſales of our goods and merchandiſe are *hindered and delayed* for ſome reaſon or other.

AND that the late adopted ſyſtem of throwing the management of the Brazil trade into the hands of excluſive Companies does unavoidably tend to the leſſening our imports into Portugal, it is thought cannot be denied, to which may be added, in ſupport of this opinion, the fate of the Maranham Company, erected in 1755, when it employed annually fifteen ſhips, now reduced to three or four, and yet is ſtill continued with a perſeverance that diſtinguiſhes the preſent æra in Portugal.

As a farther confirmation of our imports leſſening, by the eſtabliſhment of Excluſive Companies, may be mentioned, that the firſt fleet ſent by the new Company to *Pernambuco*, carried not quite $\frac{1}{4}$ part in value of the preceding one which went on the

the general account. From whence may be inferred, that on the eſtabliſhment of the *Bahia* and *Rio* Companies (the former of which is ſoon expected to take place) what is now partly opinion, will make itſelf ſo thoroughly felt in Great Britain, as to leave no longer room for doubt.

THE 10th Article of 1654 is ſtill more explicit on the ſubject of a *Free Commerce*, it granting us a liberty

> " Freely to carry all ſorts of merchandize into
> " the kingdoms, ports and territories of the
> " King of Portugal, and ſell the ſame at *our*
> " *will and pleaſure*, to any perſon whatſoever.
> " —— and we are not to be *prohibited*, *cir-*
> " *cumſcribed* or incapacitated by the King, his
> " Miniſters, Monopoliſts, &c."

WHEN your Memorialiſts read over this article, it almoſt ſeems to them that the preſent eſtabliſhments were foreſeen, and every poſſible meaſure taken to provide againſt them; for, " If we are ſtill at *our will and pleaſure*," and " *To any perſons whatſoever*," then muſt his Moſt Faithful Majeſty's preventing even a ſingle perſon buying of us be deemed a direct infraction of this article of the Treaty, and much more ſo when this embarraſſment extends to far the greateſt part of the Portugueſe nation.

YOUR Memorialiſts are ſenſible, Sir, that the Britiſh ſubject is not literally *prohibited* from ſelling his

goods in Portugal to whoever will buy them; but if words are allowed to convey a determinate meaning, he is therein manifeſtly *circumſcribed*, and that by *Monopoliſts*, contrary to the preciſe expreſs words of this article.

It is true that we are not yet wholly *incapacitated* from vending our commodities in Portugal, but in the humble opinion of your Memorialiſts, the erecting Excluſive Companies tends ſo directly to curtail our trade as a nation, and to leſſen our profits as individuals, that it is eaſy to foreſee we ſhall by degrees be totally incapacitated from purſuing this commerce, ſo eſſentially beneficial to the trade and intereſts of Great Britain.

The 11th article of 1654 gives us the moſt ample *right* freely to trade and traffick to and from Brazil and the other dominions of his Moſt Faithful Majeſty in the Eaſt and Weſt Indies.

To which may be added, that

The 12th and 13th Articles of 1661, beſides the foregoing, grant a liberty for four Engliſh Merchants or Factors to reſide in each city there, in order as the 12th Article expreſſes,

> " That we may more fully enjoy the *Benefit of*
> " *Commerce* in *all* the dominions of the King
> " of Portugal."

Here,

HERE, Sir, your Memorialiſts beg leave to obſerve, that no part of our right is more clearly expreſſed and ſettled by Treaty, than this of trading to and reſiding in Brazil: and yet, upon a careful peruſal of the Treaty, they no where find it expreſly ſaid that his Moſt Faithful Majeſty ſhall not prohibit his ſubjects in his American dominions from purchaſing our goods.

IT therefore follows, that he has the ſame right of extending theſe prohibitions to Brazil, as of laying them on in Europe; from whence this moſt obvious concluſion preſents itſelf.

THAT if the particular articles of the Treaty, by which we hold the *right* of trading to, and reſiding in Brazil are ſo clearly expreſſed, as that in conſequence of them the ſubjects of Portugal cannot be prohibited from *freely* purchaſing our goods there, no more can they by a parity of reaſoning be prohibited from doing the ſame in Europe; the right to both being, as far as your Memorialiſts can ſee, equally well and clearly expreſſed: from whence, it is hoped, they may ultimately conclude, that, in fact, his Moſt Faithful Majeſty, agreeable to Treaty, has not a right to prohibit or embarraſs either.

The firſt Article of 1703, ſays,

" THAT the woollen manufactures of Great Bri-
" tain ſhall be *admitted* for ever hereafter into
" Portu-

" Portugal, as was accuſtomed, till they were
" prohibited by the laws."

YOUR Memorialiſts think they may venture to ſay, that by right of Treaty wines of the growth of this kingdom are not underſtood by the Portugueſe to be barely *admittable* into England, but are meant to have a *free ſale* there, though moſt certainly it is not particularly ſo expreſſed in this article: and yet it cannot be denied that his Majeſty has the ſame *right* of making *Internal Regulations*, as is claimed by the King of Portugal, and may, upon the ſame principle, retaliate the embarraſſment in Portugal by admitting wines of that growth, and forbidding his ſubjects from purchaſing them.

THUS, Sir, have your Memorialiſts gone through the ſeveral articles in the manner propoſed, and hope they have made appear; That,

IN contravention to the 2d article of 1654, the *Free Commerce* there ſtipulated no longer exiſts, but is ſubverted by the eſtabliſhment of Excluſive Trading Companies in this kingdom; That,

IN direct oppoſition to the 3d article, we are obliged to ſell and traffick as the *King of Portugal pleaſes*, and not as we pleaſe; That,

CONTRARY to the Stipulation in the 9th article, the ſales of our goods and merchandizes are *hindered and delayed*; That,

IN

In open violation of the 10th article, we are not ſuffered to ſell *at our will and pleaſure*, nor to *any perſons whatſoever*, having no option left us but to ſell our goods to ſuch perſons as his Moſt Faithful Majeſty will permit to be the exporters of them, in which we are evidently *circumſcribed* by *Monopoliſts*; That,

In manifeſt contradiction to the 11th article of 1654, and to the 12th and 13th articles of 1661, we are no longer ſuffered *freely* (or indeed on any terms) to trade and traffick to and from Brazil, &c. and much leſs to reſide there:

And finally, That,

Although in compliance with the firſt article of 1703, our woollens are *admitted* into Portugal, a right is claimed and actually exerciſed by his Moſt Faithful Majeſty of hindering what part he pleaſes of his ſubjects from buying them, by committing the exports to particular perſons, which renders this *admiſſion* uſeleſs, or rather ruinous to Great Britain: from the whole of which your Memorialiſts humbly hope they have made appear;

That the eſtabliſhment of Excluſive Companies in the dominions of his Moſt Faithful Majeſty is clearly and manifeſtly contrary to both the letter and ſpirit of the Treaties now ſubſiſting between the Crowns of Great Britain and Portugal.

It now remains for your Memorialiſts to point out a few of thoſe deſtructive conſequences which appear to render the eſtabliſhment here mentioned the proper objects of a national enquiry, their natural tendency being to deprive us in part, if not wholly, of a ready and profitable market for our moſt valuable commodities, and of that conſtant ſupply of circulating caſh, that, it is apprehended, will ſoon make itſelf generally felt in England, and more particularly ſo amongſt the trading and manufacturing part of the nation.

The firſt pernicious effect to be feared from theſe eſtabliſhments is, that thereby the recovering old debts due to us, will be rendered not only precarious, but, in ſome meaſure, impracticable. The truth of which will appear, when it is conſidered, that a very large ſum is due from the ſubjects of Portugal to thoſe of Great Britain, ariſing from goods ſold them payable on the arrival of their Brazil fleets in Europe. That the recovering theſe debts depends intirely on the freſh credit allowed the Portugueſe, as by keeping a large ſum conſtantly circulating in this trade, we at the ſame time collect in former debts, and enable their merchants to export annually to Brazil a much more conſiderable quantity of the manufactures of Great Britain, than it is acknowledged they could do if left to themſelves. Now the eſtabliſhment of Companies muſt put a full ſtop to this circulation, by excluding the preſent ſet of private traders from any farther con-

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cern in the commerce to Brazil: for it is univerſally known amongſt us, that their private traders to the Brazils, who are the original purchaſers and importers of our goods into Brazil, allow their inland traders to the mines and other ſettlements, the ſame credit they get from us; from whence it follows, that we are payed by them in proportion to the returns they receive by the fleets. Now the inland trader finding that his creditors are no longer permitted to ſupply him with the goods he wants, muſt be obliged to carry his money to the Companies' warehouſe, where upon inveſting it, he gets credit for a larger aſſortment, payable the following year; by which means he becomes the Companies' debtor, putting off the payment of his old debts, and conſequently rendering it impoſſible for the Portugueſe Merchants to diſcharge thoſe contracted with us.

HERE it may be ſaid by perſons acquainted with the trade, that the law is open, and that we may ſue our original debtors to comply with their contracts; but as few or none of them have Capitals in Europe ſufficient to anſwer their engagements, we muſt of neceſſity be ſatisfied to receive in our debts from them as they find means to collect theirs from Brazil.

IT may here farther be ſaid, with ſome appearance of reaſon, that the merchant importer of our goods into Brazil, has the reſource of obliging the inland trader by law to comply with his engagements; but upon a fair enquiry, he will be found

almoſt as much circumſcribed in this particular, as in any other ;

For it muſt be conſidered,

That the inland traders in Brazil are in general men of no other principles than what their intereſts dictate ; ſettled at a conſiderable diſtance from any great city, with which they have little or no intercourſe, but during the ſhort time they allow themſelves to purchaſe aſſortments of goods once a year, on the arrival of the fleets from Europe ; and in this light may juſtly be looked upon, when in their own houſes, as out of the reach of any laws that can compel them to pay their debts.

That the Companies have a right, granted them by charter, of arbitrarily exacting the payment of all ſums due to them, as if contracted to the King ; which in Portugal is done in a ſummary way, by immediately ſeizing the goods and effects of thoſe debtors, ſetting aſide all other claims, till that of the Company be fully ſatisfied. Now it cannot be thought that the Company will ſee any of its debtors conſtrained by law to pay old debts, without firſt exerting the right of ſecuring that due to itſelf, which muſt draw on the utter ruin of ſuch inland traders as are proſecuted in this manner : and therefore it is manifeſt to every perſon of experience in this trade, that all debts contracted to the Companies will be punctually complied with, when thoſe due to the private trader, of perhaps ſome years ſtanding,

ſtanding, will be diſcharged only in part, or not at all, juſt as the inland trader's conſcience may move him. Thus it appears, that by the eſtabliſhment of Excluſive Companies trading to Brazil, the Portugueſe Merchant, our original debtor, runs the hazard of loſing the debts due to him from the inland trader, or at beſt of receiving them very late; the miſchief of which in reality will fall on the Britiſh Merchant, there being no room to expect that our debtors can anſwer their engagements to us, if they are prevented from collecting their effects in Brazil.

And here permit your Memorialiſts, Sir, to obſerve, that however indiſputable may be his Moſt Faithful Majeſty's right of laying the trade in his own dominions under new regulations; the recovering the ſums already truſted to his ſubjects, they apprehended, ought not in juſtice to be hindered or obſtructed, when it is conſidered, that under the ſpecious appearance of the trade's continuing on the *free* footing it then was, we have been invited to ſink a large capital, and this under the ſanction of the moſt ſolemn Treaties.

Wherefore if it is thought proper to deprive us in future of the *benefits* of theſe Treaties, they humbly apprehend it would be but juſt that the debts due by the ſubjects of Portugal ſhould firſt be paid, the option left us either to continue the trade or not under ſuch regulations, and we apprized what we are to truſt to, not to live under continual appre-

henſions of further *internal* reſtrictions, by which every advantage ſtipulated in our favour is countermined and evaded.

The next fatal effect apprehended from theſe eſtabliſhments is, That they will in time conſiderably leſſen the amount of our imports into Portugal, and overſet the body of Britiſh Merchants eſtabliſhed here.

Your Memorialiſts, Sir, being ſenſible that the ſyſtem of confining trade to Excluſive Companies is now generally condemned, will be on this head as ſhort as poſſible. The dearneſs of the Companies' imports into Brazil over that of the private traders muſt be granted; from whence the leſſening of their conſumption is a plain inference confirmed by daily experience.

It is in conſideration of the many extraordinary expences in which Publick Companies are engaged, that his Moſt Faithful Majeſty has granted to the *Pernambuco* Company by the 27th ſection of its charter, a right of laying 45 per cent. profit on all dry goods ſold for caſh, with 5 per cent. extraordinary if ſold at credit, reſerving to this Company a farther right of increaſing its profits, in proportion to any augmentation of duties or cuſtoms that may in future be laid on goods in Brazil: now as the Company has the ſole right of vending there, it cannot be ſuppoſed that any part of the profit allowed by its charter will be given up with a view of encouraging

raging a greater conſumption of goods; but rather, ſhould the demand in Brazil leſſen, it is much to be feared that the Company's imports of goods will decreaſe in proportion, and that the deficiency this may cauſe in its profits will be amply repayed by beating down the prices of our goods in purchaſing of us, an advantage the Company has by being the only buyer: and though it is true, that if the Portugueſe want our goods (whether as Companies or as private traders) they muſt pay for them to Great Britain, ſuch a conſideration as will render it worth our while to ſupply them; yet it is apparent, that if this trade leaves us 15 per cent. profit, and the Companies find means to reduce it to 8, it may ſtill very well ſuit us to ſupply them, though with an abſolute loſs to great Britain of the 7 per cent. ſtruck off.

It is not to be denied, that to get a large profit with a ſmall outſet is as much the intereſt of the private trader as of a Publick Company; but upon enquiry will appear the great advantage England draws from the former.

For the Britiſh Merchant in Portugal, who conſtantly imports a much larger aſſortment of goods than he has a certainty of ſelling, finds himſelf under a neceſſity of tempting the Portugueze to take them off his hands; and though perhaps to him at little profit, ſtill the Britiſh nation gains very conſiderably.

The Portugueze Merchant, who ſend their goods to Brazil, where perhaps the markets are over-

ſtocked,

ſtocked, is under a like neceſſity of diſpoſing of them on eaſy terms; and inſtead of 45 per cent. (the Companies' profit) ſells at 40, 30, or even 20 per cent. nay ſometimes with loſs; it is all one to Great Britain provided the goods are diſpoſed of; it being farther obſervable that the cheapneſs of goods imported into the *Rio Janiero* by the free traders, has of late years encouraged a new branch of commerce between the Portugueze and Spaniards; which a Company cannot afford to continue. Your Memorialiſts, Sir, further beg leave to point as a reaſon for the decline of our imports into Portugal, the directions given in the charters of the Publick Companies in this kingdom, to encourage their own fabricks, by taking off for America the greateſt ſhare of their produce that is poſſible. And notwithſtanding your Memorialiſts are perſuaded, that neither the fabricks of this nor any other country can furniſh to Portugal the woollens it requires on the eaſy terms we do, yet when it is conſidered that the Companies' profit is 45 per cent. on all goods, whether dear or cheap, and that there is no danger of their meeting goods at market to vie with thoſe they ſend, your Memorialiſts cannot but think that it may anſwer the Companies' purpoſe to ſend to Brazil the woollens of the manufacture of Portugal, though conſiderably dearer than thoſe of Great Britain. But your Memorialiſts will ſuppoſe their Companies to take off the ſame quantity of our goods as is now done by the free traders; it is not pretended they can do ſo without having

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the ſame credit allowed them: yet as it muſt be ſuppoſed that a little time will open the eyes of the trading people in England, when many doubts will ariſe in regard to the preſent ſecurity and duration of theſe eſtabliſhments, then muſt the Portugueze find means to raiſe money ſufficient to purchaſe all the goods they want with ready caſh (which is impoſſible) or Great Britain will feel to its coſt a very conſiderable decreaſe in the amount of its imports into Portugal. Your Memorialiſts preſume, Sir, it cannot be reckoned a groundleſs aſſertion to advance, that the miſchief already ſuggeſted will be of itſelf ſufficient to overſet and expel from this kingdom the large body of Merchants, his Majeſty's ſubjects now employed here; but leſt any doubt of this ſhould remain, they farther beg leave to repreſent, that their profit, as importers of goods ſold to the Portugueze free Merchants, may, upon an average, be eſtimated at 12 to 15 per cent.

Now it cannot be ſuppoſed that a Publick Company will employ us to bring them goods to market, as we have hitherto done, for the private traders, when by importing them on their own account, this 12 to 15 per cent. (the Britiſh importer's profit) will be ſaved to the Company, and of courſe a dead loſs to Great Britain. And this ſingle circumſtance, if rightly conſidered, will in great part account for the preſent innovations in Portugal, by which that nation is like to become ſo conſiderable a gainer, though to the great and manifeſt prejudice

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of England in the decreaſe of the amount of its exports to Portugal, and in the ruin of the uſeful body of ſubjects by whom this trade is carried on at preſent.

Your Memorialiſts preſume, Sir, that little need be ſaid to prove that the eſtabliſhment of Companies tends to decreaſe the exportation of bullion from Portugal: for if the preceding conſideration is admitted, of the annual amount of our imports into that kingdom leſſening, then muſt the balance of trade in our favour leſſen in proportion, from whence the point in queſtion is a natural inference. But farther it cannot be imagined, that a publick Company, erected under his Moſt Faithful Majeſty's immediate protection, and the more immediate inſpection of his Miniſters, will venture to *export bullion*, a meaſure expreſsly contrary to the laws of the kingdom, and probably the *prevention of it* one of the motives that gives birth to the Companies, the exportation of bullion having for many years paſt been repreſented as highly prejudicial to the intereſts of Portugal, and the law againſt it ſaid (in a late extraordinary ſentence in the caſe of a ſeizure of money) to be ſolely intended to hinder ſuch practices *at all events*, as moſt pernicious to the publick good.

Some other methods muſt therefore be entered upon to pay foreign nations the amount of the Company's imports, and your Memorialiſts humbly apprehend that none can be thought of to make up to Great-Britain the want of a large ſupply of its circulating

lating caſh, ſhould their Companies occaſion, as it is feared they will,

A Decreaſe in the exportation of bullion from Portugal.

HAVING already mentioned a trade commenced between the Portugueſe and the Spaniards on the river of Plata, through the means of the low prices at which our commodities are tranſported thither from Portugal, your Memorialiſts, Sir, beg leave to obſerve that this commerce grew to be conſiderable during the laſt war between England and Spain, and was carried on and encouraged by the cheapneſs with which the Spaniards were ſupplied with Engliſh goods ſent from Liſbon in the Rio de Janeiro fleet, and from thence tranſported by ſea to the Nova Colonia do Sacramento, whither the Spaniards reſorted to purchaſe theſe goods, which were moſtly paid in dollars returned to Liſbon by the Rio fleet, the greateſt part of which may be ſaid to center in England. The latter years of the Spaniſh war the importance of this trade began to ſhow itſelf by the large ſums of ſilver brought to Europe in the Brazil fleets, and had the war laſted a few years longer, we ſhould by this inlet have ſupplied with Engliſh goods the greateſt part of the Spaniſh ſettlements in South America. Now as the carrying on this branch of trade depends entirely on the cheapneſs of the commodities, your Memorialiſts juſtly apprehend that it will be loſt in the hands of a publick Company, by its not being able to afford goods in terms to ſuit

the Spaniards, to which may be added that a publick Company will not venture to purſue a counterband trade; from whence Great-Britain will loſe a preſent advantage in the ſale of no inconſiderable ſhare of its manufactures, and a much more extenſive one in time of war with Spain.

THE laſt bad effect your Memorialiſts think it their duty, Sir, to repreſent, is that material one, of collecting by the eſtabliſhment of Companies the whole capital of the trading part of this nation into the power of the King, which to perſons the leaſt acquainted with the government appears to render all future engagements with it hazardous and inſecure; for it is not improbable that the experience of a few years will ſhew that excluſive Companies are as truly deſtructive in Portugal, as they are already found to be in every other commercial nation of Europe: when his Moſt Faithful Majeſty's eſtabliſhed right of making *internal regulations* may again be exerted to relieve his ſubjects from the oppreſſion of a confined trade; but this relief, unhappy for us, will be applied at the expence of Great Britain, unleſs an immediate ſtop is put to all trade with Portugal upon credit.

THESE are reflections, Sir, of too alarming a nature, not to be layed before you as early as poſſible, from whence your Memorialiſts would not be thought deſirous to preſs an ill-timed remonſtrance, when affairs of equal, or perhaps more weighty national concernment, call for your whole attention, but merely

merely to demonſtrate that the innovations in Portugal are ſufficient to juſtify the apprehenſions of every prudent and conſiderate member of this factory; in whoſe preſervation your influence, Sir, is moſt earneſtly, though reſpectfully, entreated, by laying before his Majeſty ſuch parts of this humble petition as in your able and diſcerning judgment may appear to merit the royal attention; that ſo this uſeful body of ſubjects, under the government of the beſt of Kings, and the moſt publick-ſpirited of Miniſters, may not be ſtripped of the advantages, which by its induſtry are rendered ſo greatly beneficial to the nation.

And your Memorialiſts, with all ſubmiſſion, preſume to hope, that his Majeſty will be graciouſly pleaſed to give ſuch inſtructions on this head to his Ambaſſador Extraordinary and Plenipotentiary, now at the Court of Portugal, as will effectually remove the evil from whence ſo many fatal conſequences are juſtly apprehended.

Liſbon, June 3, 1760.

TO THE RIGHT HONOURABLE

THE EARL OF HALIFAX,

One of his Majeſty's principal Secretaries of State.

The Memorial of FRANCIS IBBETSON, *Eſq; Deputy Conſul General, and the Merchants of the Britiſh Factory in Liſbon.*

May it pleaſe your LORDSHIP,

IN obedience to your commands, communicated to us by the Hon. Edward Hay, Eſq; his Majeſty's Envoy Extraordinary and Plenipotentiary at this Court, we have the honour to lay before you an humble repreſentation of the ſtate of our trade, and the grievances we labour under in this kingdom. Theſe having undergone no favourable alterations, ſince the date of our late numerous and circumſtantial Memorials on the ſame ſubject, tranſmitted home by his Excellency the Earl of Kinnoull, during his reſidence here in the character of Ambaſſador Extraordinary and Plenipotentiary from our Sovereign, and which are now in your Lordſhip's office, we ſhould have little to do on the preſent occaſion beſides referring to thoſe, were it not in compliance with your Lordſhip's deſire of having a recapitula-

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tion of the whole in one view, with quotations under each head, of the ſeveral articles of treaties thereby conceived to be contravened, and the addition of whatever innovations may have taken place ſince the æra of our laſt remonſtrances; which we proceed to furniſh you with in the moſt ſatisfactory manner we are capable of, beſeeching your Lordſhip's indulgence, ſhould our attempt prove deficient in point of form or perſpicuity.

I.

TO begin with the moſt important of all our *privileges*, as the infringement of it is the ſource of almoſt every *grievance*. The right of having a Judge Conſervator allowed us with an excluſive juriſdiction in all cauſes, whether civil or criminal, excepting where the Royal Exchequer is concerned, has, in our late repreſentations, been traced as far back as the reign of Dom Ferdinand, about the middle of the fourteenth century; and has been renewed, confirmed, or augmented by edicts and decrees of almoſt all his ſucceſſors before the late and preſent reigns: But not to ſwell this Memorial with a multiplicity of ſynonimous quotations, we will recur no further than the treaty of 1654; which, after confirming all prior conceſſions on this head, implying,

" THAT no warrants for impriſonments,
" attachments of effects, ſearch of houſes,
" or other judicial acts whatſoever, ſhould
" be ſerved on any ſubject of England
" with-

" without the mandate or acquieſcence of
" his Judge Conſervator being firſt obtained
" in writing ;"

FURTHER ſtipulates, article 7th,

" THAT for judging all cauſes that relate
" to the Engliſh, a Judge Conſervator ſhall
" be deputed, from whom no manner of
" appeal ſhall be granted, except to the
" Court of Relaçao, where the ſuits muſt
" be determined in four months."

AND by the 13th article of the ſame treaty it is further provided,

" THAT none of thoſe called Alcaydes,
" or other Officers of his Royal Majeſty,
" ſhall ſeize or arreſt any of the people of
" England, of whatever rank or condition
" ſoever, excepting in a criminal caſe, be-
" ing detected in ſome flagrant act; unleſs
" he be firſt impowered in writing by the
" Judge Conſervator."

THE importance, or rather the neceſſity of theſe proviſions, towards aſcertaining to us every thing that deſerves the name of privilege, is ſufficiently manifeſt from the circumſtance of the Conſervatorial Court being the only one in the kingdom where any regard is paid to *treaties*; the deciſions of all the others being regulated by the ſtrict letter of the law. So many breaches, however, have been made of late

years

years in this bulwark of all our immunities and rights, both by law and practice; that, inſtead of a refuge and protection from violence, the name of it, which has ſurvived its efficacy, is often a ſnare and a diſadvantage to us.

By a Royal Decree, dated the 5th May, 1742, we were ſubjected to the Senate or City Court in every thing belonging to the police: whence we are liable to, and frequently ſuffer, the moſt grievous outrages from the ſeveral Officers of that Department, down to the Overſeer of the Scavengers, who often enter our houſes, diſtrain our effects, and levy fines on the moſt frivolous pretences, and in the moſt arbitrary manner.

By the 29th article of the Pragmatick, or Sumptuary Law, publiſhed the 24th May, 1749, our privilege is violated, and the juriſdiction of our Conſervator taken away, in all matters relating to the breach of that law.

By a law of his preſent Majeſty, dated the 30th October, 1752, it is expreſsly ordered that no Judge Conſervator ſhall grant counter-mandates to impede the execution of any writs or orders, iſſued by the ordinary Courts, under the penalty of ſix months ſuſpenſion from his office; whence it follows, that the writ, or warrant of any judge whatever, may be ſerved on a Britiſh ſubject without the acquieſcence of his Judge Conſervator, however contrary to privilege, which he has it no longer in his power to aſſert.

By the inſtitution of the Company of Para, § 7th, and the ſtatutes of the new Board of Trade, Cap. 4th (both of royal authority) Conſervators are appointed to each of thoſe Bodies Corporate, in favour of whom the excluſive juriſdiction of ours is ſuperſeded.

The prejudices reſulting to us from theſe royal infringements of this eſſential right are innumerable. In all law-ſuits with the natives, the ſubject of which is ſeldom any other than the recovery of our juſt debts, we are almoſt conſtantly entangled in preliminary litigations about the competency of the Court; all, or moſt of our debtors, belonging to ſome Company or Corporation that enjoys the privilege of a Conſervator of *their own*, who ſeldom fails to diſpute the juriſdiction of *ours*. By theſe controverſies the moſt fatal delays are occaſioned, of which other creditors taking advantage obtain ſentences before us, and leave us, for all our trouble and expence, no other conſolation than that of having done our duty, in contending for a privilege, upon the enjoyment of which the ſafety of our perſons and effects ſo evidently depends. Nor does the ſentence of our Conſervator avail us, when obtained, ſeeing that by an appeal to the Relaçao (which is agreeable to treaties) the ſuit is often prolonged for years, and execution ſuſpended; which is not the caſe with the ſentences of any other Judge or Conſervator in the kingdom: theſe are only carried to the Relaçao, on the footing of what is called an *Aggravo ordinario*,

where the firſt ſentence is admitted as a vote, and execution immediately takes place.

But theſe diſadvantages, grievous as they are, appear trifling, compared with the inſults that we are expoſed to in our perſons, and in our houſes, from the Under Officers of ſeveral departments; ſuch as the Health Office, the Cuſtom-houſe, the Contractors for tobacco, ſoap, and cards; and the Board of Trade, by whom our houſes are entered, and ſearched in the moſt arbitrary manner, without their ſhowing any order, even from their own ſuperiors, or any badge of office; at the ſame time that reſiſtance, by a law juſt publiſhed, is made felony. Our alledging our privilege only heightens their inſolence. They break open our doors, ranſack every corner of our houſes, without the leaſt regard to decency or humanity; and ſometimes even drag us to priſon on the moſt frivolous pretexts; with circumſtances of ignominy that would ſhock a Britiſh ear to hear deſcribed.

A few of the many complaints of this kind, preſented to the Conſul General and Committee, at different times, by individuals of our body, we take the liberty to tranſmit to your Lordſhip as Vouchers * of the veracity of what is here aſſerted; to which we beg leave to refer, as well as to a diſtinct Memorial upon this ſubject, now in your office (preſented to the Earl of Kinnoull, and by him tranſmitted to Mr. Pitt) for a more particular idea of the

* Vouchers, A, No. 1, 2, 3, 4, 7, and 9; alſo Voucher, B, No. 5.

dreadful torrent of evils and oppreſſions that take their riſe from this one ſource, *The Abridgement*, or rather indeed, *The Annihilation of Conſervatorial Power.*

II.

THE Inſtitution of Excluſive Companies trading to ſeveral of the Portugueſe Colonies in America, particularly one to Gram Pará and Maranham, and another to Paraiba and Pernambuco, your Memorialiſts humbly conceive is another innovation, not to be reconciled either to the ſpirit or the letter of our treaties.

IT is not our buſineſs here to enter into a diſcuſſion of the principles upon which thoſe inſtitutions have been framed; though perhaps it would be no difficult matter to ſhow that they are as ill calculated for the advancement of the Portugueſe commerce as that of Great-Britain. The infringement of the privileges, and immunities ſtipulated for us by treaties, is what alone gives *us* a right to canvas any part of the internal œconomy of Portugal; and it was in this light only that we thought ourſelves juſtified in making the earlieſt repreſentations of the violence done to our rights, and the deſtructive conſequences apprehended to our trade, from thoſe extenſive monopolies, in a Memorial now in your Lordſhip's office, addreſſed to Mr. Pitt, on this alarming ſubject.

THE 2d, 3d, and 9th articles of the treaty of 1654 are very explicit upon the ſubject of our enjoying

ing a *free commerce* in Portugal and its dominions, and not being compelled to purchaſe of Monopolifts: And the 10th article of the ſame treaty expreſsly declares,

" THAT we may freely carry all ſorts of " merchandize into the kingdoms, ports, " and territories of the King of Portugal, " and ſell the ſame at our pleaſure, *either* " *by retale or wholeſale*, to any perſons " whatſoever, and at what price we can " get; and that we ſhall not be prohibited, " circumſcribed, or incapacitated by his ſaid " Royal Majeſty, or his Miniſters, Gover- " nors, Farmers of the Revenues, or Mono- " poliſts: or by any chamber, or juriſdiction " of any tribunal whatſoever, either publick " or private."

THE 11th article is no leſs clear with regard to our right

" TO trade and traffick freely, and ſafely, to " and from the Brazils, and other conqueſts " of the King of Portugal in the Weſt- " Indies, as alſo to the dominions belong- " ing to the ſaid King in the Eaſt-Indies, " Guinea, Bengal, the Iſland of St. Thomas, " &c."

By the Marriage Treaty in 1661, article 1ſt, all former treaties betwixt the two Crowns from the

year 1641 are renewed, ratified, and confirmed in the ſtrongeſt terms that language could furniſh: And by the 12th and 13th articles of the ſame treaty, our right to trade to the conqueſts and colonies of Portugal is amplified as follows,

" ARTICLE 12th, And in order that
" the ſubjects of his Britannick Majeſty
" may more fully enjoy the benefits of com-
" merce in all the dominions of the King of
" Portugal, it is agreed that their Mer-
" chants and Factors (over and above what
" has been ſtipulated on this head by former
" treaties) ſhall, by virtue of *this*, have leave
" to reſide in whatever places they pleaſe,
" and ſhall enjoy all privileges and immu-
" nities relating to commerce, the ſame as
" the Portugueſe themſelves in the fortreſſes
" and towns of Goa, Cochin, and Diis,
" provided the number of Britiſh ſubjects,
" ſo reſiding, never exceeds four families in
" one place."

ARTICLE 13th extends the ſame privilege to us in the

" BAY of all Saints, Pernambuco, and Rio
" de Janeiro; in the Brazil, and in all the
" other dominions of the King of Portugal
" in the Weſt-Indies."

ALL

All theſe articles your Memorialiſts, with due ſubmiſſion, apprehend are notoriouſly violated by the inſtitution of excluſive Companies.

By treaty we are entitled to the enjoyment of *free commerce* : Now, with what regard to truth, can a commerce, ſo great a proportion of which is thus monopolized, ſhackled, and circumſcribed, be termed *free ?*

By treaty we are to have the privilege of

" *Selling to whom we pleaſe*, &c."

And can we be ſaid, without the groſſeſt evaſion, to enjoy this right, whilſt his Moſt Faithful Majeſty's ſubjects, except the few that compoſe the Companies, are incapacitated from buying our goods by being prohibited from ſending them to the markets to which they are adapted ?

By treaty we are not to be compelled to purchaſe of Monopoliſts. But the Companies are Monopoliſts : And if not *expreſsly*, are we not *virtually* compelled to purchaſe of them, if we can get the products of their reſpective diſtricts from no other hands ? Finally, by treaty we have a right to trade to, and reſide in, all the ports and ſettlements belonging to Portugal in the Eaſt and Weſt-Indies: Of this right we are deprived by the inſtitution of Companies ; in common with his Moſt Faithful Majeſty's ſubjects indeed, but publick faith required,

that in this caſe we ſhould not have been confounded with them.

FROM this plain ſtate of a few ſimple *facts*, we would willingly flatter ourſelves that the incompatibility of ſuch extenſive monopolies with the *letter*, and much more with the *ſpirit* of the treaties ſubſiſting betwixt the Crowns of Great-Britain and Portugal, will appear as clearly as from a much more elaborate deduction; to which we are unequal, and which at the ſame time is unneceſſary, whilſt we have the honour of addreſſing ourſelves to a judge of your Lordſhip's ſuperiour lights in commercial, as well as political affairs. On theſe facts we therefore reſt our plea, and with the moſt implicit deference to your Lordſhip's judgement.

As to the deſtructive *tendency* of the Companies to *trade in general*, and the ruinous conſequences reſulting from them *particularly* to your Memorialiſts, and the important branch of the Britiſh commerce which they conduct; they have been ſet in ſo true a light by the ſequel of the Memorial already referred to, under this head, that we have little to add, farther than to aſſure your Lordſhip, that the time that has elapſed ſince the date of that paper has only ſerved to juſtify our fears, by aggravating the evils that were then begun to be felt, and realiſing others that were then only problematical.

III.

THE Pragmatick, or Sumptuary Law, publiſhed in 1749, and confirmed with ſome extenſions and

and modifications by an Alvará, of the 24th April, 1751, and ſtill farther inforced and extended by an ordinance publiſhed by the Board of Trade the 24th of May, 1757, has proved in its conſequences of the utmoſt prejudice to the Britiſh commerce in this kingdom. The declared aim of that law being to ſuppreſs luxury in the dreſs and equipage of the natives, it was at firſt imagined that our trade would not be, in any conſiderable degree, affected by it, as the exports of England to Portugal conſiſt chiefly in the *conveniencies* and *neceſſaries* of life, and not in *articles of luxury*. By the original law, however, the *importation* of a conſiderable number of goods and wares, of the manufacture of England, and the *uſe* of others, which amounts to the ſame thing, were prohibited: And in the ſubſequent explanations, and extenſions of the ſame law, ſeveral additions were made to the firſt liſt of articles prohibited, of very conſiderable prejudice to us, and likewiſe, as we humbly conceive, repugnant to treaties. But how muſt our mortification be heightened, to find that both in the letter and execution of this law, a partiality is manifeſted, and practiſed in favour of other nations, even of the conſtitutional enemies of Portugal, *France* and *Spain*?

In the 3d article, by which the wear and importation of all figured ſilks is forbidden, a door is left open for the damaſk of Spain and Italy; and notwithſtanding the liſt of goods declared contraband, publiſhed the 24th of May, 1757, includes under that

that denomination all figured ſtuffs of ſilk, even though mixed with other materials, the ſilk and worſted ſtuffs, of French manufacture, called Druggets, are every day diſpatched in the Cuſtom-houſe, whilſt Engliſh goods, of the ſame materials *, are refuſed admittance. But this is not the only advantage that the French enjoy over *us*.

By the treaty of 1703, the prohibition was taken off the importation of woollen goods, in favour of Great-Britain: With reſpect to France, it remained, and ſtill remains in force; yet the French introduce their cloths in great quantities daily, without embarraſsment, and as they confine themſelves chiefly to thoſe of a ſuperior quality, they are not in the leaſt affected by the 10th article of the law in queſtion, by which all liveries, that are not of cloth, of the manufacture of Portugal, are forbid: The whole weight of this article falls upon us, as the cloths commonly uſed for the purpoſe juſt mentioned were thoſe of the manufacture of Yorkſhire, of a quality in which other nations have rarely interfered with *us*.

The liſt of goods declared contraband by the reſolution of the 24th of May, 1757, of which we take the liberty to tranſmit your Lordſhip a copy †, contains a conſiderable number of Britiſh exports of great conſequence, never till then ſuppoſed to be excluded even by the law of 1749, nor capable of being conſtrued articles of luxury, allowing the ut-

* Voucher, B, No. 2. † Voucher, B, No. 10.

moſt

moſt rational latitude to that predicament: Yet, by the arbitrary deciſion of a ſingle Officer in the Cuſtom-houſe, freſh articles are daily added to it, and no one can tell where it will ſtop.

The prohibition of tanned leather is a moſt ſenſible blow to the Britiſh commerce, as great quantities of that commodity were imported into this kingdom from Great-Britain, Ireland, and North America, and notwithſtanding ſome old reſtrictions as to the uſe of it, continued to be diſpatched, and to pay the duties, till by a decree, dated the 8th of April, 1758, it was ordered that it ſhould no longer be admitted to an entry in the Cuſtom houſe.

As an inſtance of the rigorous execution of this law, not to call it by an harſher name, we beg leave to tranſmit to your Lordſhip a ſtate of the caſe * of ſome Merchants here, in relation to a parcel of tanned hides landed in Portugal, ſo early as the month of March, before this law came out; but in conſequence of it, detained in the Cuſtom-houſe, and refuſed to be admitted to entry till the 31ſt May laſt, when they were deſtroyed by fire. This caſe is of ſo remarkable a nature, that the ſufferers earneſtly requeſt us to lay it before your Lordſhip, humbly hoping that it may be found in itſelf not unworthy of your attention; and as it affords a ſtriking proof of the need we have of ſome powerful interpoſition in our behalf, againſt the many innovations every day taking place in this country.

* Voucher, B, No. 9.

IV.

THE laying additional duties on our goods; the oppreſſive innovations that have taken place in the manner of their valuation in the Cuſtom-houſe; the increaſe of charges upon our ſhips, and the many burthenſome regulations with regard to their diſpatch, that are every day taking place in this port, are articles no leſs contrary to the expreſs ſtipulation of Treaties, than deſtructive to our trade, and diſcouraging to navigation.

By a ſecret Article of the Treaty of 1654, it is agreed, that

" THE Engliſh trading to the dominions of " the King of Portugal *ſhall not pay more* " *duties or taxes*, but only in the manner fol- " lowing, viz. The Engliſh goods, mer- " chandize and manufactures, *ſhall never* " *exceed* 23 per cent. on their valuation for " the payment of the duties; and they ſhall " be favourably valued according to the re- " gimen of the Cuſtom-houſe, and the *an-* " *cient laws* of the kingdom; and ſuppoſing " there ſhould be any motives for raiſing " the valuation, by reaſon of a riſe of the " real value of goods or merchandizes, *it* " *ſhall not be done but by the conſent, and in* " *the preſence of two Engliſh Merchants who* " *reſide, and dwell in Portugal, and are* " *choſen by the Engliſh Conſul.*"

YET

YET contrary to this agreement in *every circumſtance*, about three months after the dreadful blow that commerce received from the memorable diſaſter of the firſt of November 1755, an additional duty of 4 per cent. was laid upon our goods, under the pretence of defraying the expences of building a *Cuſtom-houſe*; a purpoſe to which another diſaſter, of a later date, affords a fatal proof that it has never been applied.

BESIDES this, the method of valuation is now become ſo arbitrary and ſevere, by the laying aſide the old book of rates, and putting it intirely in the power of officers, who inſtead of fixed ſalaries (as was formerly the caſe) are paid a certain proportion of the duties they impoſe; that the exactions on many articles of Britiſh manufacture amount to a prohibition.

IT will be readily granted by all who have the leaſt knowledge of commercial affairs, that the impoſition of 4 per cent. alone, when it is to be added to a ſtanding duty of 23 per cent. is much better calculated for diminiſhing the conſumption of our goods than for increaſing the royal revenues; but how muſt the caſe be aggravated, when the ſtandard of exaction of both the old and new duties is left to be fixed by people in a low claſs of life, who are by the tenure of their office both judges and parties, whoſe poverty obliges them to graſp at

preſent advantage, and conſpires with their want of knowledge to hinder them from looking forward to the certain, but more remote prejudices ariſing from their ſeverities.

The 4th Article of the Treaty of 1654 ſtipulates, That

" NEITHER while the Engliſh ſtay in the " ſaid harbours (of the King of Portugal) " ſhall there be put on their ſhips more than " two guards or officers at moſt; and in " unloading their ſhips there ſhall be no un- " neceſſary delays: and if the ſaid ſhips " which are loaden with dry goods ſhould " not be unloaden within the ſpace of ten " days, and the ſhips loaden with fiſh and " proviſions within fifteen days after their " entrance into the port, they ſhall not, " however, be obliged to pay any ſtipend, " or ſum of money, or any ſalary to the " ſaid guards or officers; nor upon their " account be at any farther expences more " than for the ſaid ten or fifteen days re- " ſpectively."

By the 20th Article of the ſame Treaty it is declared,

" THAT the Engliſh who arrive in the " harbours of Portugal with their ſhips " ſhall

" ſhall not pay for anchorage, or other port
" charges or duties, any ſums of money
" more than thoſe which are cuſtomarily
" paid to the King and Chamber of Liſ-
" bon."

THESE Articles have been ſo compleatly diſregarded, that the additional charges on ſhipping impoſed from time to time are almoſt paſt reckoning up; and the different formalities and offices to be gone through are ſo numerous, that the diſpatch of a veſſel is become a ſcience of ſo complex a nature, that the greateſt adepts are apt to commit miſtakes, at the ſame time that pains and penalties are inflicted upon every failure, with the utmoſt rigour.

OF theſe impoſitions ſome of the neweſt are 1500 reis to the new Board of Trade, 200 reis per ton for light money, excepting ſuch ſhips as carry out full loadings of the products of Portugal, in favour of which this charge is mitigated to 50 reis per ton; the fees and emoluments of the Health Officers, which are greatly increaſed, as well as the expence of guards, whoſe fees are raiſed from 300 to 600 reis per day, their number frequently increaſed, and their ſtay on board pro'onged, at the ſame exorbitant expence, till the final diſcharge of the cargo, though the ſame ſhould exceed, as it generally does, the time limited by treaty.

THERE

THERE is another weighty grievance that comes under the ſame head, which is, that all ſhips that come into this port, whether forced by ſtreſs of weather, or voluntarily, in time of war to wait for convoys, or to procure intelligence of the ſtate of the markets in the Mediterranean, for all which purpoſes the centrical ſituation of this port renders it highly convenient, are obliged to take out a licence, called a *Franquia*, and receive guards at the enormous rate abovementioned, which occaſions great delays, beſides the expence. This is expreſly contrary to the 2d Article of the Treaty of 1654, already ſo often referred to, which ſays,

> " THAT the Engliſh without a permit, or
> " other licenſe, general or ſpecial, may
> " enter, and navigate in the harbours and
> " ports of Portugal, &c. and with the
> " ſame liberty depart from thence with their
> " goods, &c. either to their own or foreign
> " countries, as they ſhall think fit."

NOR is this all; ſeveral ſhips loaded with corn that came into this port lately have been detained by force, and obliged to diſcharge their cargoes, though deſtined for other markets, and at a time too when there was ſo little appearance of dearth or ſcarcity here, eſpecially of grain, that the warehouſes were ſo full of corn, it was with the utmoſt difficulty that a place was found to lodge what was thus detained.

YOUR

YOUR Memorialiſts are ſenſible that this is a right aſſumed by all States and Governments in caſes of extreme neceſſity; but the practice on ſuch occaſions is to indemnify the proprietors by purchaſing their cargoes at the prices the reſpective commodities bear at the places they were bound for, allowing a competent time for the ſhips to arrive: but we are ſorry to obſerve, that the favourable part of this cuſtom has not been practiſed in regard to us; on the contrary, theſe cargoes of grain were left on our hands to be diſpoſed of in what manner we could for account of the original proprietors, who, in general, will be great ſufferers by it, as the glut of corn at that time kept the prices very low, and occaſioned ſlow ſales; the extreme hot weather that immediately followed ſpoilt a conſiderable part of what remained unſold, and greatly reduced the value of the reſt. Your Lordſhip has had a ſtrong inſtance of an affair of this kind already laid before you, in the caſe of the two ſhips from Berwick, for which no redreſs has been yet obtained from this Court.

UNDER this head we further beg leave to refer your Lordſhip to a Memorial * preſented to the Deputy Conſul and the Committee, by the gentlemen employed as agents for the contractors for victualling his Majeſty's ſhips of war, relating to a breach of privilege †, which occaſions not only a conſiderable

* Voucher, B, No. 1. † Voucher, B, No. 2.

prejudice to thoſe gentlemen, but may often prove greatly detrimental to his Majeſty's ſervice, eſpecially in time of war, with the exigencies of which the tardy proceedings and embarraſſing methods of diſpatch in the offices, here complained of, are totally incompatible.

V.

THE inſurmountable difficulties that we encounter, in claiming debts due to us by ſuch as are impriſoned and have their effects ſequeſtered by the Inquiſition, or by the King's Exchequer, call loudly for redreſs. Such ample proviſion is made in our favour by the 5th Article of the Treaty of 1654, that nothing more than the obſervance of it would be neceſſary to obviate every cauſe of complaint on this ſcore. A ſeparate Memorial, ſetting forth the preſent practice in caſes of this nature, which is among thoſe tranſmitted by the Earl of KINNOULL, will ſhew your Lordſhip, that inſtead of being paid out of the delinquent's effects, in a limited time, we are engaged in tedious and expenſive ſuits at law, in the courſe of which ſuch proofs are demanded as it is impracticable for us to furniſh; in conſequence of which we are condemned to loſe our debts, to pay the coſts of ſuit, and are judicially branded with the imputation of fraudulent colluſions with the delinquents, only for making uſe of legal means to recover our property.

FRESH

FRESH cauſes of complaint on this head have ariſen ſince the date of the Remonſtrance in queſtion, too numerous to be laid before your Lordſhip at this time, but your Memorialiſts humbly beg leave to recommend the grievance in general to your peculiar attention, as large ſums are at this time withheld from us, that are our moſt undoubted property.

EQUAL prejudices ariſe to your Memorialiſts from the *Moratorios* or Royal Letters of Protection, often granted to ſcreen our debtors from all proſecutions; and from the aſylum afforded to all who chuſe to claim it, by the Board of Trade, whoſe tardy proceedings in the adminiſtration of the affairs of bankrupts, after an experience of years, we find to be intolerable.

VI.

BY the 9th Article of the Treaty,

" NEITHER the ſhips, merchandize, or " other goods belonging to the Engliſh are " to be taken or detained, either for *war*, " or *any other uſe whatſoever*, unleſs thoſe " to whom ſuch ſhips or goods appertain " are firſt apprized thereof, *and give their* " *conſent*." And a little lower, " Neither " ſhall they be taken for the King's uſe, " nor for any uſes whatſoever, if the perſons " who are concerned in the goods do not " conſent thereto."

During the late war ſeveral infringements of theſe ſtipulations were patiently ſubmitted to by your Memorialiſts, in conſideration of the urgency of the times; but it is with the utmoſt concern that we find ourſelves under a neceſſity of complaining of the continuance of them during a time of profound and general tranquillity *. Cloths for cloathing the troops, lead, coals, rice, butter, and other ſtores and proviſions for the royal magazines, and even for convents of Friars, who are maintained by the King, have been ſeized during and ſince the war, againſt the will of the owners, who after a ſolicitation of years have not been able to obtain payment of the value. The ſeizing of cloths in the Cuſtom-houſe, even were they to pay for them immediately, would ſtill afford a very juſt cauſe of complaint, ſeeing they ſpoil our aſſortments by their picking out ſuch particular colours as they want, at the ſame time that they oblige us to diſpatch, and pay duties for the whole parcel immediately, though by this means it is rendered unvendable, except at a great diſadvantage. But the capital grievance is the delay of payments, which is to the greateſt degree diſcouraging to trade, and ruinous to individuals, who after the ſignal loſſes they have ſo lately ſuſtained, cannot afford to have any conſiderable part of their property ſo long detained from them.

* Vouchers, B, No. 3, 4, 6, 15 and 16. Alſo Voucher, A, No. 6.

VII.

VII.

YOUR Memorialiſts farther beg leave to repreſent to your Lordſhip, that a moſt illegal ſentence in relation to a ſeizure of money, whereby the penal laws againſt the exportation of coin are extended to the moſt grievous and oppreſſive lengths, is ſtill unrevoked, and ſtands as a moſt dangerous precedent againſt us, notwithſtanding our late Sovereign's moſt gracious interpoſition in our behalf, in conſequence of our humble applications, firſt by his Envoy Extraordinary the Honourable EDWARD HAY, Eſq; and afterwards by his Ambaſſador Extraordinary the Earl of KINNOULL. The reviſal ſolicited by his Lordſhip, and promiſed, was, ſoon after his departure for England, refuſed; which gives an higher ſanction to the ſentence in queſtion than it had before. Copies of the papers relating to this affair we have the honour to tranſmit for your Lordſhip's peruſal *.

VIII.

IN all countries where commerce is cheriſhed, protected or underſtood, a merchant's book of accounts has always been conſidered as the moſt ſacred article of his property †. Good reaſons may be aſſigned for this, deduced from the ordinary courſe and nature of trade every where; but the particular circumſtances attending the Britiſh commerce in this

* Voucher C. † See our Privilege, Voucher B, No. 12.

country render the obſervance of this rule a matter of the laſt importance to ſuch as reſide here, as the moment that it is violated our properties and thoſe of our correſpondents, and even our lives are at the mercy of any man that chuſes to be our enemy. Yet a moſt flagrant inſtance of ſuch violation your Memorialiſts have now before them, in the caſe of JAMES KELLY, late a merchant here, whoſe counting-houſe was broke open, by common officers of juſtice, and his books taken away by force, and carried to the houſe of a Judge, where they remained two days without being ſealed up, or any precaution taken to hinder the bad conſequences that might have reſulted to him from having his private tranſactions in trade expoſed to publick view: a caſe of ſo heinous a nature, that we want words to expreſs to your Lordſhip the conſternation it occaſioned, or the fervency of our wiſhes that ſome expedient may be found to ſecure us from ſuch acts of violence for the future.

IX.

THE laſt article of complaint with which we ſhall preſume to trouble your Lordſhip at preſent is of a peculiar nature, and the only inſtance in which we have ventured to deviate from your injunctions, *to confine ourſelves to the repreſentations of ſuch matters only as are really of great importance to our commerce.*

THERE are in this city ſeveral Britiſh ſubjects of fair characters, induſtrious and uſeful in their ſtations, who under pretence of their not being merchants, or wholeſale dealers, are ſubjected to hardſhips and vexations which your Memorialiſts, oppreſſed and aggrieved as we are, in many other inſtances, are exempted from; ſuch as having their goods ſeized for preſuming to ſell by retail, paying the *Decima*, or tax of ten per cent. and ſeveral other impoſitions and exactions levied upon them under various pretexts.

PEOPLE that deal in all kinds of ſtores for ſhipping, and even ſuch as keep decent houſes of entertainment for ſhip-maſters and other foreigners, in a country where no ſuch conveniencies are to be met with among the natives, are as neceſſary as a landing-place: but abſtracted from their uſefulneſs, it is humbly conceived, that they have the ſame title to enjoy the privileges of Treaties as we ourſelves. For firſt their right of ſelling by retail cannot be queſtioned, if any regard is paid to the 10th article of the Treaty of 1654, which ſays,

> " And ſell the ſame (their merchandize) at their
> " pleaſure, either by retail or wholeſale."

BESIDES it appears by a letter of King John the Firſt, that the Engliſh enjoyed this privilege even before his reign, ſeeing he confirms to them the

right

right of having green cloths at their doors, which is the ſign of a retail ſhop to this day. And 2dly, your Memorialiſts are exempted from paying *Decima*, not as wholeſale dealers, but as Britiſh ſubjects. Thoſe poor people are Britiſh ſubjects as well as we; by parity of reaſon therefore, it is conceived, they are likewiſe to be exempted.

In an Alvara, or Law, dated May 29, 1656, we find the following words:

> " IT is my will and pleaſure to ſhew grace " unto the Engliſh Merchants *and others of* " *that nation*, reſiding in theſe kingdoms " and dominions of Portugal, who have " not been therein naturalized, by exempt- " ing them from paying the *Decima* (or " tenth) on their ſtock."

And by another of the late King, dated February 8, 1717, our nation is exempted from the like tax in the following manner:

> " BEING informed that the ſubjects of dif- " ferent nations diſpute the payment of the " tax on their ſtock, which they were " charged with, under pretence that they " are privileged by the articles of peace " which free them from paying the ſaid " tax, I was pleaſed to reſolve on the 28th " of April laſt, that the French and other

" nations

" nations ought to pay the tax, and that the
" ſubjects of Spain, England and Holland,
" ought to be exempted from this contri-
" bution."

THESE, we humbly conceive, are proofs of what we ventured to advance in favour of thoſe poor people, that carry conviction along with them. A few of their Petitions * and complaints lately received we take the liberty to tranſmit to your Lordſhips, and ſhould think ourſelves wanting both in our duty to our Sovereign, and to thoſe our fellow-ſubjects, were we to omit this opportunity of acquainting you with their ſufferings, and that they intreat your Lordſhip would recommend them to his Majeſty's protection.

HAVING thus enumerated, as briefly as we judged conſiſtent with any degree of perſpicuity, the principal maladies by which the Britiſh trade to this kingdom has been reduced to its preſent languiſhing ſtate, and which without ſome ſpeedy and efficacious remedy muſt ſoon effect its final diſſolution; and having produced, at the ſame time, ſuch articles of the Treaties betwixt Great Britain and Portugal, as we apprehend give us a right to ſolicit and expect redreſs, it only remains for us to expreſs our moſt grateful acknowledgments to your Lordſhip for affording us this freſh opportunity of carrying our

* Voucher, A, No. 5 and 8. Alſo Vouchers B, No. 7, 8, 13 and 14.

grievances to the throne, and to implore your good offices in laying this our humble Memorial at the feet of our moſt Gracious Sovereign, from whoſe princely wiſdom, paternal regard for the good of his ſubjects, and conſtant attention to the intereſts of commerce, we derive the moſt pleaſing hopes of obtaining the reſtitution of thoſe eſſential rights and privileges that have been ſo unjuſtly wreſted from us, and of being protected in the uninterrupted enjoyment of them for the future, as the only means of preventing our ſpeedy ruin as individuals; the loſs of ſeveral millions of actual property to Great Britain, and the contingent advantages of a moſt important branch of her commerce.

READ and approved at a General Meeting of the FACTORY the 29th of November, 1764; as appears by their Reſolution of ſaid date, and ſigned by Forty Members then preſent.

APPEN-

APPENDIX.

THE four firſt Memorials of the former ſheets were preſented, during the adminiſtration of the late Mr. Pitt, now Earl of CHATHAM; but as the war was then in its greateſt height, thoſe turbulent times were probably deemed an improper ſeaſon for diſcuſſions of that ſort, which were but too likely to produce embarraſſments to the publick affairs, and when the war was ended, that great Miniſter was unhappily removed from the high place he formerly occupied in the Adminiſtration.

THE laſt Memorial in the year 1764, addreſſed to the Earl of HALIFAX, did not, it is ſuppoſed, come to that noble Lord's hands till he had returned to a private ſtation, ſo probably remains in his Lordſhip's private repoſitories; but as the grievances complained of therein have never been redreſſed, and are in a great meaſure the continued cauſes of the declenſion of our trade in Portugal, it ſeemed needful to communicate it to the world, that nothing intereſting in an affair of ſuch conſequence might remain a ſecret from that Public which hath ſo great a right to be fully inſtructed in all our grievances in Portugal.

THE ſentence mentioned in the firſt Memorial, whereby money taken from an Engliſh ſubject in the ſtreets of Liſbon was confiſcated, is but too plain a proof that the property of our fellow-ſubjects can be no longer ſecure in a country where Judges are permitted to found condemnatory ſentences upon a bare ſuppoſition only, of an intention to export bullion: And though this precedent hath not hitherto produced further bad conſequences, yet it remains ready to be quoted in ſupport of oppreſſions of a ſimilar nature, as it has now received the ſanction of cuſtom and judicative authority in its favour.

THE power of our Conſervators in Portugal can be of no uſe for our ſecurity and protection unleſs their authority is allowed to ſubſiſt in the ſame extenſion as ſtipulated by Treaty. In a country, where every arbitrary *dictum* of a King or Miniſter muſt be taken for law, we cannot be ſafe unleſs our Conſervator is enabled to preſerve us from the violence of Judges acting under ſo deſpotic a command, where there is no Jury to appeal to, and no Judge who is not as ſubject to orders from the Miniſter as the meaneſt ſoldier in our armies to thoſe of his General.

AND if we conſider the nature of the Great Companies mentioned in the former ſheets, it is eaſy to conceive what ſmall degree of permanency can be promiſed to trade, under the influence of ſuch powerful monopoliſts, cheriſhed by the favour of an arbitrary Sovereign, and baſking in the ſmiles of

the favourite Miniſter who gave them being. A prohibition of ſending our goods had effectually ſhut us out of Brazil, and the eſtabliſhment of the Companies of Grand Para and Pernambuco hath ruined our trade to Portugal alſo, as none but thoſe monopoliſts are permitted to deal with us for the affairs of theſe diſtricts, and by ſubſequent regulations no ſhip is permitted to go to Rio de Janiero or Bahia, but by a ſpecial licence from the Miniſter.

THE benefit that is to ariſe to us from an alliance with Portugal is only of a commercial nature, notwithſtanding which, we have not required any favourable diſtinction in point of duties on the commodities we ſend to that kingdom, though their wines are admitted into this country on paying only about two-thirds of what is paid on wine from France.

THE privileges granted to our countrymen are no greater than what a peaceable inhabitant ought to be entitled to in any country, and far leſs than what every foreigner enjoys in this.

BY Treaty we are entitled to a free trade to Brazil, yet we have tacitly given up that privilege, though the only mark of favour which the commerce of England is diſtinguiſhed by above others; our trade to Portugal ought, therefore, to be free and uncircumſcribed, and the perſons and property of our

countrymen ſafe and ſecure during their reſidence there.

THE acknowledged worth and extenſive abilities of the Honourable Gentleman, now named to the important office of Envoy to the Court of Liſbon, give grounds for the moſt ſanguine hopes.

THAT Gentleman, we are certain, will make the beſt uſe poſſible of the high authority with which he is inveſted, in order to obtain a relief from theſe grievances; but if a thorough redreſs of them is really comprized within his inſtructions, he muſt expect to encounter in the Portugueze Miniſter, ſtill in high favour at Court, every obſtruction that can be invented, ever poſitive to execute meaſures he adviſes; ſo that if the Envoy is not, in truth as well as appearance, furniſhed with the powers of a Miniſter Plenipotentiary, it may eaſily be foreſeen that all our ſanguine expectations, from ſo encouraging a nomination, will evaporate, without producing the deſired end. Remonſtrances, if theſe only are in view, though never ſo ſpirited, will, it is to be feared, ſucceed no better than former experiments of that ſort, if we may judge of the future by the paſt, even though ſome ſingularly favourable circumſtances now concur towards the promotion of ſucceſs to this embaſſy which formerly exiſted not.

THE palliating ſyſtem, hitherto obſerved with the Court of Liſbon, inſtead of diminiſhing, has rather encreaſed the diſeaſe, and rendered the cure more diffi-

difficult. A continuation of the ſame languid meaſures muſt certainly continue to preſent us with a long train of unavailing remonſtrances, complaints, memorials, and ſuch like puſillanimous expedients of feeble Miniſters calculated only for procraſtination. But the character of our preſent Miniſters flatters us with hopes of a ſuperiour conduct, ſuitable to the genius of the noble Lord at the head of the Adminiſtration, who is not ignorant by what means ſucceſs is to be inſured to negociations in Portugal as well as in Spain, and is poſſeſſed of too ſtrong a love for his country, to leave theſe means uneſſayed, in a matter of ſuch conſequence to the trade of this kingdom.

It is, I own, ſurpriſing to hear ſome of my countrymen affirm, that there lies no remedy for the ills we complain of in Portugal, becauſe every Prince has a right to make what internal regulations he thinks proper for the police of his own kingdom, without being anſwerable to any other power for the propriety of theſe regulations, which are only to be meaſured by the utility of his own ſubjects. All this would be very true, if there were no treaties between us and Portugal, or if treaties are only made to be broke; but if an obſervation of treaties is to be expected from his Moſt Faithful Majeſty, that Monarch cannot juſtly make laws for the benefit of his own ſubjects derogatory to the privileges ſtipulated for the Engliſh Merchants reſident in Portugal, by ancient leagues between the two nations.

Let us turn the tables, and ſuppoſe monopolizing Companies, of the like nature as in Portugal, eſtabliſhed here, one of theſe engroſſing the wine trade, I mean, the trade of Port wine, and the other that of the Fruit, ſo that no perſon, except a few members of theſe Companies, could either buy Port wine or the fruits of Portugal. Would not his Portugueze Majeſty have a juſt right, by his Ambaſſador, to remonſtrate againſt this law as being prejudicially reſtrictive of the trade of Port wine and Portugueze fruits, and inconſiſtent with treaties? And would he not charge his Ambaſſador to obtain a revocation of this grievous ſtatute or proclamation, as the caſe was? Can it then be reaſonably denied that we have a like right to complain of pragmatical laws in Portugal injurious to the privileges of our fellow ſubjects there, and tending, not only to deprive us of our trade and the immunity of our perſons, but alſo calculated for the iniquitous purpoſe of protecting our debtors from the juriſdiction of our Conſervators, as ſome of us have already too ſeverely felt? Let any man impartially conſider the parity of the ſuppoſed caſe with the real one, too unhappily ſubſiſting between us and Portugal, and ſay, after mature deliberation, if the eſtabliſhment of the Monopolizing Companies is not utterly inconſiſtent with the treaty granting us a free trade in that kingdom, and inſuring the independency of our Conſervator: We, on our part, muſt give a conſtant ſupport to the Royal Houſe of Braganza, in lieu of this free trade, and the advantages ariſing from that intercourſe of commerce between the two nations. We have been

juſt

juſt to our ſtipulations, and far from rigorous in our demands of the preſtations incumbent on Portugal: Why then ſhould we not be indulged in ſome ſort of a compliance, at leaſt, from that kingdom, with the treaty we ſo faithfully obſerve? Equity, ſure, pleads in our behalf, and from the Patriot characters of our preſent Miniſters, we are emboldened to hope for ſucceſs in our endeavours to obtain that juſtice of Portugal, which every nation has a right to expect from its allies.

FINIS.

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